



Labour Department (Headquarters)

勞工處(總處)

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By Fax (2877 5029)

21 December 2012

Ms Evelyn LEE
Assistant Legal Adviser
Legal Service Division
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Ms LEE,

**Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2012
(L.N. 186 of 2012)**

Thank you for your letter of 17 December 2012 to the Department of Justice concerning the drafting of the Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2012 (the Notice). Based on the advice of the Department of Justice, below is our written reply:

We wish to clarify that section 2 of the Notice is in line with paragraph 15.2.1 of *Drafting Legislation in Hong Kong - A Guide to Styles and Practices* (the Guide) in that section 2 states that the Minimum Wage Ordinance (Cap. 608) is being amended as set out in section 3 of the Notice. While paragraphs 15.2.1, 15.2.7 and 15.2.8 of the Guide explain the general nature of an Enactments Amended Clause and set out examples of it, those paragraphs are not meant to be exhaustive or prescriptive. Notably, paragraph 3 of the Preface of the Guide explains that the Guide “is not intended to be exhaustive. It sets out guidelines

for good practice rather than rigid, prescriptive rules” and “it is important to leave the drafter with some flexibility to decide how best to achieve the legislative objective clearly and effectively in a given context”.

Further, section 2 of the Notice is not intended to explain the amending provisions. Rather, the references in section 2 to the current hourly wage rate being increased and to the effective date being specified tally with the enabling provision, i.e. section 16(1) of the Minimum Wage Ordinance. That section 16(1) specifically empowers amendments to be made to Schedule 3 to the Ordinance to increase or reduce the then current hourly wage rate, and to specify the effective date of the change. Section 2 is legally in order and is also more informative to the reader in the given context.

Yours sincerely,



(MAK Chi-tung)
for Commissioner for Labour

c.c. Department of Justice (Attn : Mr Manuel MC NG)