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22 June 2016

The Honourable Andrew LEUNG Kwan-yuen, GBS, JP
Chairman
House Committee
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

A handwritten signature in black ink, appearing to read 'Andrew Leung Kwan-yuen'.

Employment (Amendment) Bill 2016

The Government introduced the Employment (Amendment) Bill 2016 (“Bill”) into the Legislative Council (“LegCo”) on 2 March 2016. LegCo subsequently formed a Bills Committee chaired by Hon. Wong Ting-kwong and five meetings were held between 1 April 2016 and 7 June 2016 to scrutinize the Bill. Upon completion of the scrutiny of the Bill, Hon. Wong Ting-kwong submitted a report on 17 June 2016 to the House Committee setting out views and suggestions on the Bill.

We would like to thank Hon. Wong Ting-kwong and members of the Bills Committee for their work related to the scrutiny of the Bill. As mentioned in the letter of 30 May 2016 from the Government to the Bills Committee, the Labour Department (“LD”) had in early May reported to the Labour Advisory Board (“LAB”) in full the detailed views, including various views and suggestions on the amount of the further sum expressed by members of the Bills Committee during its first four meetings. After detailed discussion, LAB did not support the various suggestions but agreed that the ceiling for the further sum might be increased, though no consensus was reached on the increased ceiling of the further sum. LAB members advised that they would need time to further consult their respective organisations before they could discuss the subject of increased ceiling further at LAB.

The Government subsequently received in early June 2016 five sets of Committee stage amendments (“CSAs”) proposed by Hon LEE Cheuk-yan. The Government already gave views on the CSAs at the Bills Committee meeting on 7 June 2016 and issued a written response to the LegCo Secretariat on 14 June 2016. We are of the view that the CSAs proposed by Hon LEE Cheuk-yan deviate significantly from the consensus reached by LAB and that some of them would appear to have fallen outside the scope of the Bill. We therefore oppose the five sets of CSAs proposed by Hon LEE Cheuk-yan. Nevertheless, we have, in accordance with the standing practice, passed the CSAs to LAB members for consideration.

As repeatedly emphasized by us during the meetings of the Bills Committee, the various proposals under the Bill are based on the consensus reached by LAB. The hard-earned consensus was reached after protracted discussions between employer and employee members of LAB over a long period of time, having balanced the interests of employers and employees. The proposals under the Bill are part and parcel of the whole scheme which is considered feasible and acceptable to employer and employee members of LAB as well as the major employers’ associations and employee unions they represent. The Government therefore must pass the suggestions made by LegCo members on the Bill to LAB for detailed deliberation. If the suggestions touch on important matters, the consultation would need time.

As mentioned above, LAB members, after detailed discussion, have indicated that they would need to consult their respective organisations on the ceiling of the further sum. We shall, based on the result of the consultation, bring the matter to LAB for further deliberation with a view to fostering consensus. The Government has not hitherto received from LAB members the result of their consultation with their respective organisations. LAB members also advised that they would need time to deliberate on Hon LEE Cheuk-yan’s proposed CSAs. As the current legislative term will expire in mid-July, the Government does not envisage that the relevant deliberation will be able to be completed with the necessary amendments to the Bill made and that the Second Reading debate of the Bill will be able to be resumed within the current legislative session. As a result, the Bill will lapse at the end of this term pursuant to Rule 11(4) of the Legislative Council Rules of Procedure and section 9(4) of the Legislative Council Ordinance (Cap. 542).

LD will continue to follow up with LAB members on their views on the ceiling of the further sum and Hon LEE Cheuk-yan’s CSAs.

When LAB has reached a consensus, we shall, in the light of such consensus, make amendments to the Bill as appropriate and introduce the Bill into LegCo.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Matthew Cheung Kin-chung', with a long horizontal flourish extending to the right.

(Matthew CHEUNG Kin-chung)
Secretary for Labour and Welfare