



立法會秘書處 法律事務部
LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

來函檔號 YOUR REF : LD CR/5/15/706
本函檔號 OUR REF : LS/B/23/16-17
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URGENT

By Fax (3101 1018)

3 January 2018

Ms Queenie WONG
Assistant Commissioner for Labour (Policy Support)
Headquarters
Labour Department
16/F, Harbour Building
38 Pier Road
Central
Hong Kong

Dear Ms WONG,

Employment (Amendment) (No. 2) Bill 2017

I refer to the draft Committee stage amendment ("CSA") proposed by the Administration, which aims at extending the time limit for prosecution of the offences of unlicensed operation of employment agencies ("EAs") and overcharging of commission by EAs by adding a new subsection (7A) to section 60 of the Employment Ordinance (Cap. 57) under clause 7 of the Bill.

Under the proposed new subsection (7A) of Cap. 57, the 12-month limitation period for prosecution starts to run "after the date of the commission of the offence". In this regard, it is noted that the wordings "after the offence is discovered by, or comes to the notice of, [the relevant authority]" are used in certain existing pieces of legislation, such as:

- (a) section 43B(4) of the Mandatory Provident Fund Schemes Ordinance (Cap. 485);
- (b) section 49 of the Energy Efficiency (Labelling of Products) Ordinance (Cap. 598);

- (c) section 56 of the Food Safety Ordinance (Cap. 612);
- (d) section 53 of the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap. 615); and
- (e) section 101 of the Private Columbaria Ordinance (Cap. 630).

Please explain to members why the approach of "after the date of the commission of the offence" instead of the above approach of "after the offence is discovered by, or comes to the notice of, [the relevant authority]" is adopted by the Administration in the proposed CSA.

I look forward to receiving your reply in both English and Chinese by **5 January 2018**.

Yours sincerely,



(CHUI Ho-yin, Alvin)
Assistant Legal Adviser

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