

MEF: Scrap service charge once and for all

[Robin Augustin](#)

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Malaysian Employers Federation says better for employers to pay employees clean wages, removing the possibility of complications attached to service charges.



PETALING JAYA: More than two years after the minimum wage came into effect, the issue of service charges remains a complex problem for employers and open to abuse by irresponsible bosses.

In an interview with FMT, Malaysian Employers Federation (MEF) Executive Director Shamsuddin Bardan said the problem with the service charge was over conflicting laws and court rulings on whether service charges constitute wages.

“Under the amended Employees Provident Fund (EPF) & Miscellaneous Provisions Act 1952, service charges are not part of wages, but under the Employment Act, service charges are considered part of wages,” he said when commenting on the issue which has yet to be resolved.

When the minimum wage came into effect in 2013, the National Wages Consultative Council guidelines for the hotel industry stated that employers could convert all or part of the service charge collection meant for employees to form part of the minimum wages.

This was then complicated by a decision by the Domestic Trade, Cooperatives and Consumerism Ministry to only allow those who displayed their Collective Agreements (CAs) to impose a service charge, and this led to an outcry as few hotels and restaurants that imposed a service charge actually had a union and CAs.

All these complications, Shamsuddin said, led to hotels with unions facing legal battles with employers who cited the different legislation and court rulings on service charges as being part of wages.

“It also presents a situation where employees working in hotels and restaurants with no unions or CAs, may be shortchanged if the service charges are not disbursed as per the 90:10 ruling.”

Shamsuddin explained that the 90:10 ruling meant that 90 per cent of the service charge collected was disbursed to rank and file employees, while the management retained the 10 per cent for various expenses.

“When there is a union, they have access to the accounts of the employers and can see how much service charge was collected, but this is not the case for establishments without a union.”

Hence, a win-win solution, Shamsuddin said, was for the government to scrap service charges and for hotels and restaurants to pay their employees clean wages.

“So the establishments will take all service charges imposed and give employees a fixed salary every month. This will be fairer for all parties as it would eliminate unnecessary and expensive legal disputes caused by conflicting laws and court rulings.”

He added that it would also benefit employees as they would be guaranteed a consistent wage throughout the year, even during non-peak periods.

Shamsuddin acknowledged that clean wages would mean higher EPF contributions for employers and employees, but this was something that was unavoidable if the problems caused by service charges were to be resolved once and for all.