

**LegCo Panel on Manpower
(Meeting on 23 January 2003)**

Government's efforts in strengthening tripartite cooperation to maintain harmonious labour relations, stepping up enforcement against wage offence and combating illegal employment

Purpose

The Administration is firmly committed to promoting good employer-employees relations and protecting employees' rights and benefits. This is particularly important at a time of economic difficulties and high unemployment. This paper elaborates the Government's efforts in strengthening tripartite cooperation to maintain harmonious labour relations, stepping up enforcement against wage offences and combating illegal employment.

Strengthening tripartite cooperation to maintain harmonious labour relations

2. Hong Kong has long enjoyed harmonious employer-employee relations, which underpin our economic success. Despite the current economic climate, the overall situation on the labour relations front remains relatively stable. This is largely due to the concerted efforts of employees, employers and the Government. To achieve industrial harmony, the Labour Department (LD) provides effective conciliation service and actively promotes tripartite communication and cooperation.

3. In 2002, the LD handled 35 254 labour disputes and claims – an historic high. Notwithstanding this, we have successfully settled through conciliation a record 20 636 cases, accounting for 63.2% of all the cases handled. While the average number of working days lost due to strikes in Hong Kong is always among the lowest in the world (0.26 day per 1 000 salaried employees and wage earners in 2001), not a single working day was

lost through strike last year. The LD will keep up its efforts in ensuring industrial peace through the speedy resolution of employment claims and disputes.

4. To further enhance tripartite cooperation with a view to reinforcing harmonious labour relations and resolving issues expeditiously, LD has been actively setting up industry-based tripartite committees. These committees provide useful forums for representatives of employers, employees and the Government to discuss issues of common concern.

5. Since 1998, nine tripartite committees have been set up. They cover the catering, construction, property management, retail, hotel and tourism, warehouse and cargo transport, printing as well as cement and concrete industries. These committees meet regularly to deliberate on a wide range of industry-specific issues. The discussions are invariably conducted in an informal and amicable manner, thereby encouraging free exchanges between representatives of employers and employees.

6. With the joint efforts of their members, many of these tripartite committees have successfully resolved some of industry-specific issues, set commonly agreed standards or promoted themes which are of benefit to the industry as a whole. Some successful examples of such tripartite cooperation include :

- setting-up of special committees with tripartite composition to look into skills upgrading for different industries;
- drawing up the Code of Labour Relations Practice and sample employment contract for the catering industry;
- production of a reference guide on employment-related issues relevant to the hotel and travel industry;
- compilation of a training opportunities manual for employees in the printing industry for their skills upgrading purposes; and

- production of a special guide advising employees in the cargo transport industry on the distinction between contract of employment and contract for service.

7. To promote good people management practices at the enterprise level, the LD has set up 18 Human Resources Managers' Clubs for more than 1,500 human resources practitioners from the different trades and industries. Regular meetings of these clubs provide an informal yet treasured forum for experience sharing. We also capitalise on these occasions to regularly update members on developments on the labour legislation front as well as other special programmes or services provided to employers by the LD.

8. In 2003, the LD will strengthen the existing framework through more active use of these channels for in-depth discussion with a view to addressing industry-specific employment issues. Some examples include the continued vigorous promotion of the use of written contract and keeping of wage records for the construction industry and the employment rest day arrangement for the catering industry. In addition, LD will also step up efforts in promoting the benefits of tripartite consultation to employers and employees at large, so as to inculcate a culture of workplace cooperation and voluntary consultation. This will, in turn, help lay a good foundation for tripartite cooperation in the long run.

Stepping up enforcement against wage offences

9. The Government takes a serious view on late payment and underpayment of wages. LD has put in place effective arrangements to enforce statutory provisions governing payment of wages. All suspected wage offences will be investigated and prosecutions will be taken out against employers immediately once sufficient evidence is available.

10. With stepped-up enforcement action in 2002, the number of summonses heard in respect of wage offences rose to 198, representing a marked increase of 108% over the 95 summonses in 2001. As for summonses convicted, the number was 139 for 2002 as against 75 in 2001, up of 85%.

11. To further expedite investigation and prosecution against wage offences, LD has recently set up a new Employment Claims Investigation Unit. This unit is tasked to conduct in-depth investigation into suspected breaches of the Employment Ordinance (EO) at the earliest instance with a view to taking out prompt prosecution against employers.

12. LD has also been taking vigorous enforcement action by paying frequent inspection visits to workplaces such as construction sites and the catering establishments to detect wage offences. These inspections would also send a strong signal to employers that the Government is extremely concerned that provisions on the payment of wages should be fully complied with.

13. A territory-wide campaign is now being conducted to detect wage offences in catering establishments. Thus far, 971 catering establishments have been visited. Late payment or underpayment of wages is detected in 36 establishments involving 176 employees. Where there is prima facie evidence, we will prosecute the employers. During the visits, we also distribute a newly designed leaflet to remind employers of their statutory obligations on payment of wages and to educate employees in making prompt complaints about wage offences. Another round of visits to construction sites is also being conducted. Some 1 500 construction sites have been visited so far. There are six reports of late payment or underpayment of wages. We aim at visiting all Chinese restaurants and construction sites by mid-February.

14. On public education, LD maintains a series of publicity programmes. These publicity efforts aim to urge employees to protect their employment rights by pursuing wage claims promptly and coming forward as prosecution witnesses, and to remind employers of their statutory wage payment obligations.

15. Underpayment of wages to FDHs has also been an area of public concern. A special task force comprising representatives of the Economic Development and Labour Bureau, LD, the Immigration Department and the Police has recently been set up to clamp down on such illegal practices,

including overcharging of commission from job-seekers by local employment agencies. We have also worked out a system for reporting underpayment of FDHs with the migrant worker groups and Non Government Organizations (NGOs) which provide support services to FDHs. We will make immediate investigation into all complaints received. In 2002, we revoked or refused to renew the licence of seven employment agencies. In addition, we also refused to issue a licence to an applicant.

16. We believe that our strenuous efforts to step up prosecution would have a deterrent effect on employers evading their wage liabilities and on unscrupulous employment agencies.

Stepping up enforcement and publicity to combat illegal employment

17. The Government is determined to combat illegal employment to protect job opportunities for our local workforce. In 2002, more than 3 500 operations were conducted leading to the arrest of 11 900 illegal workers and 918 employers. With enhanced enforcement efforts, the number of illegal workers prosecuted soared from 5 514 in 2001 to 8 609 in 2002, while the number of employers prosecuted also rose from 310 in 2001 to 383 in 2002, an increase of 56% and 24% respectively. It is noteworthy that in December 2002, a grocery stall owner was sentenced to three months' imprisonment for illegally deploying two FDHs to work at her grocery stall and the two FDHs involved were each sentenced to six weeks' imprisonment. In another case where a florist was found to deploy her FDH to work in her shop in August 2002, both the florist and her FDH were sentenced to two months' imprisonment.

18. In 2003, LD will step up efforts in combating illegal employment through territory-wide routine inspections and targeted operations. Co-operation and exchange of intelligence with the Immigration Department and the Police will be reinforced. In particular, LD will strengthen enforcement action against illegal employment in interior renovation and minor demolition works. In 2002, the Department visited 886 work sites under decoration or demolition to check employees' proof of identity. More territory-wide campaigns and joint operations with other enforcement departments will be

launched in 2003 to stamp out illegal employment in these sectors.

19. LD has launched an intensive publicity campaign against the employment of illegal workers through television, radio and the printed media. A new announcement for public interest (API) highlighting the custodial penalty and employee compensation liability of employing FDHs illegally has been broadcast on television and radio since October 2002. Arrangement has been made with a bus company to broadcast the API on buses in February 2003. Publicity leaflets conveying similar messages are also being sent to more than two million households/ business establishments as enclosures to the demand note for Government rates. We will continue to enclose publicity leaflets in the standard employment contract for FDHs to remind employers not to deploy their FDHs to perform non-domestic duties nor allow them to perform part-time domestic duties for other persons.

Economic Development and Labour Bureau (Labour Branch)

January 2003