

For information
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LegCo Panel on Manpower

Revamping the Labour Inspection Service to Strengthen Protection of Employees' Rights and Benefits

PURPOSE

This paper outlines the Labour Department's recent initiative to revamp its Labour Inspection Service (LIS) to strengthen the protection of employees' rights and benefits, clamp down on law-infringing employers and combat illegal employment.

LABOUR INSPECTION

2. The Labour Department (LD) is fully committed to safeguarding employees' rights and benefits and protecting the employment opportunities of local workers. To this end, labour inspectors (LIs) of LD conduct territory-wide routine inspections and targeted campaigns to workplaces to check employers' compliance with the relevant labour ordinances and combat illegal employment.

3. The enforcement strategies of LIs have been regularly reviewed and adjusted in the light of developments in the labour market. In December 2002, labour inspectors conducted for the first time a campaign to eating places to detect wage offences. As a result, 45 convicted summonses were secured and 33 employees got back their wages and other statutory benefits subsequent to LIs' investigation. Following the campaign, LIs in district offices have been tasked to proactively check payment of wages with employees interviewed during their enforcement visits since March 2003.

4. In 2003, LIs conducted 156 919 workplace inspections to detect offences, collect evidence with a view to prosecution and educate employers and employees on their respective obligations and rights. In the same year, LIS secured a total of 2 503 convicted summonses on offences detected

during workplace inspections and investigation of complaints and non-compliance of awards of the Labour Tribunal (LT) and the Minor Employment Claims Adjudication Board (MECAB).

5. LD conducted a review in the second half of 2003 to formulate a new organization structure for LIS with a view to increasing the mobility and responsiveness of the LIS so as to enable more flexible deployment of staff and to enhance enforcement effectiveness.

REVAMPING THE LABOUR INSPECTION SERVICE

6. LD revamped the LIS in January 2004. As a result, the number of district offices (DO) has been reduced whilst that of the special enforcement team (SET) increased (details are provided in paragraph 10). The revamp is designed to enhance LD's capability in combating wage offences and illegal employment activities etc.

7. The revamped service is currently divided into 12 law enforcement districts, each with a DO and a SET responsible for the enforcement of various labour legislation. The DO and SET are arranged in pair and housed under one roof so that their computer systems are linked up to facilitate sharing of inspection and offence records of establishments within the same service boundary.

8. The DOs are responsible for enforcing the Employment of Young Persons (Industry) Regulations, the Employment of Children Regulations, the compulsory insurance provisions under the Employees' Compensation Ordinance and Part IVB of the Immigration Ordinance which prohibits the employment of illegal workers. LIs of DOs conduct daily inspections to a large number of workplaces, meet employees to detect possible offences and advise employers on relevant legislative provisions. They maintain an enforcement presence in the district and play a preventive role in deterring employers from breaching labour laws. In conducting daily workplace inspections, LIs of DOs also look out for suspected breaches of the Employment Ordinance (EO) through actively interviewing employees. Suspected breaches identified under the EO are referred to SETs for in-depth investigation and collection of evidence.

9. The SETs specialize in the collection of evidence with a view to taking out prosecution under the EO. They also conduct blitz operations from time to time targeting at industries and trades with more offence records to enforce EO provisions relating to payment of wages and granting of statutory benefits, such as rest days, statutory holidays, paid annual leave etc. They are also tasked to investigate complaints by the public and handle cases where employers have defaulted payment of awards at LT and MECAB.

MAJOR FEATURES OF THE REVAMPED SERVICE

Increased number of SETs to strengthen the enforcement of EO

10. Prior to the revamp, LIS operated 19 DOs and five SETs responsible for protecting local workers' rights and benefits. After the revamp, the number of SETs has been increased from five to 12 through internal deployment of staff from DOs, the number of which are correspondingly reduced from 19 to 12. With increased manpower, the enforcement of EO including the wage provisions can be strengthened to combat the upward trend of wage offences. Investigation of cases where employers have defaulted payment of MECAB/LT awards can also be expedited.

11. While DOs and SETs specialize in the enforcement of different pieces of legislation, they work closely together in ensuring effective enforcement of the EO under a two-tier inspection system. This system allows LIs of DOs (who visit workplaces individually) to reach out to the greatest number of establishments and actively interview employees to detect possible offences while enabling LIs of SETs (who usually conduct inspections in pairs) to concentrate their efforts on the more time-consuming work of offence investigation and evidence collection in suspected cases.

Co-location of DOs and SETs for enhanced operational efficiency

12. Co-location of the 12 pairs of DOs and SETs are underway. As at the end of February 2004, five pairs of DOs and SETs have been co-located and the remaining seven pairs will be co-located within 2004.

13. The new organizational set-up will bring about operational efficiency in the following aspects:

(a) Facilitating better coordination of inspection planning

The pair of DO and SET shares the same database on establishments within the same service boundary. With access to the comprehensive inspection findings and offence records of individual establishments under different legislation, LIs of DOs and SETs of the same district can better coordinate their inspection strategies to ensure effective enforcement against law-infringing employers in the district.

(b) Enhancing efficiency of the two-tier inspection system

Co-location of DO and SET serving the same enforcement district ensures close communication between the two and speeds up the referral of suspected breaches of EO detected by the DO to the SET for prompt follow-up action.

(c) Allowing more flexible staff deployment

Co-location will also allow flexible deployment of staff between the two teams to cope with the changing enforcement requirements at the district level.

ENFORCEMENT PRIORITIES IN 2004

Tackling wage offences

14. In 2004, tackling wage offences will continue to be a prime task of LD. LIs will actively interview employees during territory-wide routine inspections to uncover wage offences at an early stage and to launch special campaigns to trades with high offence rate to curb the problem. Territory-wide campaigns are being planned to combat wage offences in selected trades.

15. We are also concerned about the non-payment and/or late payment of wages at construction sites. In 2003, there were a total of 115 convicted summonses on wage offences in the industry, an increase of 505% when compared with 19 convicted summonses in the previous year.

Combating illegal employment

16. To safeguard the employment opportunities of local workers, LD continues to accord high priority to combating illegal employment. In 2003, LIs conducted 154 129 workplace inspections to check employees' proof of identity and detect illegal employment activities. Since mid-2003, we have adjusted our enforcement strategy in conducting more joint operations with other enforcement departments to apprehend illegal workers and their employers on the spot.

17. In 2003, a total of 36 joint operations were launched with the Police and/or Immigration Department to raid establishments with suspected illegal employment activities. This was a substantial increase of 140% as compared with 15 joint operations in 2002. The total number of illegal workers and their employers detected in the year reached 490 and 86 respectively, representing increases of 44% and 473% respectively over the figures in 2002.

18. To support the new enforcement mode, LIs will continue to strengthen intelligence collection and analysis with a view to launching more intelligence-led joint operations with the Police and Immigration Department in 2004. Senior labour inspectors are tasked with additional responsibilities to make more frequent reconnaissance in their districts to identify suspected workplaces with illegal workers and to strengthen liaison with the Police at district level for launching joint operations. In the first two months of 2004, LIs conducted 11 joint operations with other departments, detected 84 illegal workers and 14 employers of such workers.

19. During their routine inspections, LIs also distribute a new leaflet to warn employers of the dire consequences of employing illegal workers and publicize LD's telephone complaint hotline at 2815 2200 to facilitate reporting of illegal employment. To enhance the effectiveness and efficiency in conducting large-scale inter-departmental joint operations, a special task force of well-experienced LIs will be drawn from DOs and SETs when necessary for quicker and more flexible mobilization of experienced enforcement staff.

CONCLUSION

20. We envisage that the new set-up of the Labour Inspection Service will enable LD to better utilize its limited manpower resources and enhance its mobility and responsiveness in enforcement. We will closely monitor the operation of the revamped service and make necessary adjustment to ensure that it achieves the goal of protecting employees' rights and benefits.

Economic Development and Labour Bureau
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