

For information on
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LegCo Panel on Manpower

Progress Report on Measures Taken by the Labour Department to Combat Illegal Employment

Purpose

This paper briefs members on the progress of the measures taken by the Labour Department (LD) to combat illegal employment.

Legislation

2. Under section 41 of the Immigration Ordinance (Cap. 115), any person who contravenes a condition of stay by working illegally in Hong Kong shall be guilty of an offence and liable on conviction to a fine of \$50,000 and imprisonment for two years. Any person who aids or abets someone to breach their condition of stay in Hong Kong is in contravention of section 89 of the Criminal Procedure Ordinance (Cap. 221) and section 41 of the Immigration Ordinance, with maximum penalty of a fine of \$50,000 and imprisonment for two years.
3. Under section 17I of the Immigration Ordinance, any person who employs a person not lawfully employable commits an offence and is liable on conviction to a fine of \$350,000 and imprisonment for three years.
4. Labour Inspectors (LIs) of LD are authorized under section 17L of the Immigration Ordinance to check the employee records maintained by employers and the proof of identity carried by employees during workplace inspections. While LIs are not empowered to arrest, detain and prosecute illegal workers and their employers, they work closely with their counterparts in the Hong Kong Police Force and the Immigration Department to bring criminal proceedings against offenders.

Enforcement Strategy

5. LD is committed to protect the employment opportunities of local workers. We accord high priority to combat illegal employment by conducting vigorous workplace inspections and launching joint operations with other enforcement authorities to raid targeted establishments. In parallel, we also strengthen our publicity and promotional efforts to enhance public awareness of the adverse consequences of illegal employment.

Territory-wide workplace inspection programmes

6. LIs conduct proactive and surprise inspections to establishments of different trades throughout the territory to combat illegal employment. They check the employee records maintained by employers and the proof of identity carried by employees during the inspections. In 2006, LIs conducted a total of 127 871 inspections to a wide cross-section of different workplaces at the street level as well as in factory and office premises and shopping centres, and checked the proof of identity of 202 126 employees. These inspections aim at highlighting our enforcement presence in the workplaces and reminding employers their legal liabilities in employing illegal workers. The statistics on workplace inspections undertaken during the past four years are as follows:

	2003	2004	2005	2006
Number of workplace inspections	154 129	129 713	131 399	127 871
Number of employees whose proof of identity was checked	233 864	207 797	210 943	202 126

As LD intensified its efforts in intelligence collection and analysis to launch more targeted operations to detect wage offences and combat illegal employment during the period, the number of inspections dropped as a result of the revised mode of enforcement.

7. Any suspected cases of illegal employment detected during our workplace inspection programmes are immediately referred to the Immigration Department for further investigation and prosecution. In 2006, LIs made a total of 286 referrals to the Immigration Department.

Joint operations organised in collaboration with other enforcement authorities

8. Since mid-2003, LD has adjusted its enforcement strategy by placing increasing emphasis on mounting targeted operations with the Hong Kong Police Force and the Immigration Department to raid workplaces with suspected illegal employment activities. The police/immigration officers arrest the illegal workers and their employers on the spot during these joint operations. The outcomes of these joint operations are widely publicised by the media. They bring home the clear message that the Government is determined to clamp down on illegal employment.

9. This targeted mode of operation has proved to be effective. The number of joint operations increased from 176 in 2005 to 189 in 2006, which was also five times of the 36 operations conducted in 2003. The number of illegal workers and their employers detected in 2006 were 502 and 231 respectively, which remained at broadly the same level as the corresponding figures of 538 and 237 in 2005. When compared to the respective figures of 206 and 86 in 2003, however, the numbers of arrest registered significant increases. The statistics on joint operations undertaken during the past four years are as follows:

	2003	2004	2005	2006
Number of joint operations conducted	36	104	176	189
Number of suspected employers of illegal workers arrested	86	196	237	231
Number of suspected illegal workers arrested	206	590	538	502

The targets raided in 2006 included eating places, food factories, retail shops, renovation sites, waste material recycling workshops, foot reflexology shops and hair salons, etc. In the first three months of 2007, 45 joint operations have already been conducted.

10. To support the targeted mode of operation, LD has strengthened the collection of intelligence on workplaces with suspected illegal employment. LIs are required to look out for irregularities and hints of illegal employment activities during their daily inspections, and make careful analysis of intelligence and complaint reports received from different sources including trade unions, LegCo Members, District Council Members, media reports and members of the public. LD has also widely publicised its complaint hotline (2815 2200) through newspaper advertisements, press releases, leaflets and posters to encourage the public to report illegal employment activities to LD for

prompt investigation. A user-friendly report form has been uploaded onto LD's homepage to facilitate reporting of illegal employment activities.

Publicity and Education

11. Apart from vigorous enforcement actions, LD spares no efforts in publicising the Government's zero tolerance of illegal employment and the custodial sentences for employment of illegal workers. Our publicity efforts have yielded good results, especially in terms of the number of intelligence on illegal employment activities received. In 2006, we received 412 pieces of intelligence from different sources, as compared to 180, 371, and 395 respectively in 2003, 2004 and 2005. The intelligence serves as a good starting point for planning our joint operations with the Hong Kong Police Force and the Immigration Department on a highly focused basis.

12. We have organised a wide range of activities under our publicity programmes for the past two years. These activities included:

- (a) a new poster and a new leaflet highlighting the sentencing guideline on immediate imprisonment terms and recent conviction cases for distribution to owners' incorporations, mutual aid committees, contractors of building renovation and maintenance works, property management companies, labour unions and households especially in districts with clusters of old residential buildings in 2005;
- (b) an advertisement publicising our complaint hotline on bus bodies from August to October 2005 and from June to August 2006;
- (c) an Announcement in the Public Interest (API) alerting employers of the custodial sentences for offences on employment of illegal workers broadcast on RoadShow in June 2006;
- (d) a new leaflet reminding the public not to employ illegal workers for circulation to over two million households as an enclosure in water bills during the billing cycle from July to October 2006;
- (e) souvenir ball pens with our complaint hotline inscribed for free distribution to members of the public at LD's job fairs in 2006; and
- (f) a leaflet for insertion into the standard employment contracts for foreign domestic helpers (FDHs) reminding employers of FDHs not to deploy their FDHs to undertake non-domestic duties, which constitutes a form of illegal employment.

13. In 2007, LD will continue its publicity programmes to enhance public awareness of the adverse consequences of employing illegal workers. A poster featuring our complaint hotline will be displayed in the KCRC trains running on the West and East Rails in April 2007. LIs will distribute publicity leaflets to employers and employees during workplace inspections. Other publicity activities in the pipeline include advertisements in local newspapers and public transport.

Inter-departmental Co-ordination

14. LD has been working in close collaboration with other enforcement authorities to combat illegal employment. Apart from the joint operations with the Hong Kong Police Force and the Immigration Department, LD is a member of the Inter-departmental Task Force on Mainland Visitors Involving in Illegal Activities which was set up by the Government in April 2003 to enhance co-ordination among various departments with a view to taking more effective actions against Mainlanders working illegally or engaging in other unlawful activities in Hong Kong. The Task Force facilitates regular exchange of intelligence on illegal employment activities among different departments. It also plays a pivotal role in the coordination and review of the related enforcement activities of the concerned departments.

Way Forward

15. Combating illegal employment will continue to be a prime task of LD in 2007. We will continue our two-pronged approach. On the one hand, we will strengthen the collection and analysis of intelligence on illegal employment activities for launching more intelligence-led operations with other enforcement authorities to raid targeted establishments. On the other hand, we will step up our publicity efforts through various channels to educate the public not to employ illegal workers. We will also foster our partnership with other enforcement authorities to share intelligence and enhance the effectiveness of our enforcement and monitoring regime.