

For information on
5 July 2007

LegCo Panel on Manpower

Measures to promote harmonious labour relations in the construction industry

Purpose

This paper briefs Members on the measures adopted by the Administration to enhance harmonious labour relations in the construction industry.

Labour disputes and claims in the construction industry

2. With the concerted efforts of the Administration, trade unions, employers and various stakeholders, the number of labour disputes and claims handled by the Labour Department (LD) has continued to decline. In the first five months of 2007, LD handled 37 labour disputes (i.e. those involving over 20 employees) and 756 labour claims (i.e. those involving 20 or fewer employees) in the construction industry, as compared with the figures of 52 and 912 respectively for the same period last year, representing decreases of 29% and 17%.

3. With a view to further improving labour relations in the construction industry, the Administration has adopted a series of measures as stated below.

Partnership with trade unions

4. The LD has set up an early warning system in collaboration with trade unions in the construction industry to gather intelligence on non-payment of wages. Trade unions will inform the LD whenever they are aware of any labour disputes so that the department can promptly provide conciliation service to help resolve the disputes at an early stage.

Partnership with major principal contractors

5. Officers of the Labour Relations Division of LD maintain close contact with major principal contractors to share experience on good people management practices and sub-contracting management. Direct communication

channels are in place between our officers and the management of these major principal contractors to facilitate prompt response to labour disputes in the industry.

Tripartite discussion forum for construction industry

6. We have established a tripartite committee for the construction industry comprising representatives of trade unions, employer organisations and LD to discuss matters of common concern including labour relations in the industry, and promulgate industry-specific good people management practices through regular meetings and other activities such as seminars, publication of guidebooks, etc.

Enforcement against wage offences

7. Labour Inspectors (LIs) of LD have continued their vigorous workplace inspection programmes to clamp down on employers defaulting on wage payments. Two special campaigns targeted at construction sites to detect wage offences were conducted in 2006. A total of 72 construction sites were visited and late payments were detected in 21 of them. Subsequent prosecution actions successfully secured 22 convictions. In the first five months of 2007, LIs had already inspected 57 sites to detect wage offences. In the course of their inspections, LIs also distributed to employees leaflets containing LD's wage offence complaint hotline (2815 2200) and highlights of statutory provisions on employees' rights and benefits. This facilitates employees to make early report on non-payment of wages to LD.

Prosecution

8. As regards prosecution, 261 convictions relating to wage offences in the construction industry were secured in 2006, representing an increase of 85% over the figure of 141 in 2005. In the first five months of 2007, 81 convictions relating to wage offences for the industry were secured, representing a drop of 26% over the figure of 109 in the same period of last year. The drop in convictions was largely attributable to the deterrent effect of stepped-up prosecutions in previous years and various monitoring measures put in place. In 2006, two contractors were heavily fined \$114,000 and \$109,000 respectively, with another one given custodial sentence of eight weeks' imprisonment (suspended for one year).

Measures to monitor wage payment in public works and building projects

9. To safeguard employees in the construction industry against wage default, the Environment, Transport and Works Bureau (ETWB) and Housing Authority (HA) incorporated monitoring measures into new public works contracts as well as HA's building contracts from 1 May 2006. Details of these measures are as follows:

- (i) installing a computerised smart card system at construction sites to keep records of workers' attendance;
- (ii) requiring all on-site workers to enter into written employment contracts with their employers;
- (iii) arranging for bank auto-payment in respect of wages and requiring main contractors to submit copies of wage payment records;
- (iv) the employment of Labour Relations Officers (LROs) to check and verify the wage payment records and be responsible for receiving, acknowledging and recording complaints and inquiries from workers. Suspicious cases, complaints and defaults would be reported to the LD for further investigation, verification, resolution, prosecution and enforcement as appropriate under the relevant legislation;
- (v) monitoring and restricting subcontracting layers on specified work trades and work elements;
- (vi) in cases of wage default, the Administration has the right to utilise contract monies to make payment directly to the workers who are owed wages after the Labour Tribunal has awarded in favour of workers. For Government contracts, the workers have the responsibility, however, to report any arrears of wages to the LRO within seven days after they are owed wages.

10. The above new measures have been adopted for all new works contracts tendered since 1 May 2006 and on-demand bonds will be required in all new HA works contracts to be tendered out as from July 2007 onward. In addition, monitoring groups comprising representatives from employer associations, trade unions and the Administration have been established to provide a forum for discussions on labour related issues associated with public works and building projects. The Administration will make necessary adjustments to the measures as they are being implemented in the light of practical experience in order to enhance the protection for construction workers.

Campaign to forestall disputes arising out of building rehabilitation works

11. In recent years, there is general concern over building rehabilitation in order to safeguard public safety and improve the urban landscape. The Urban Renewal Authority (URA) and the Housing Society (HS) have in place incentive schemes to make building rehabilitation easier. However, these projects, if not managed properly, could have adverse implications on labour relations and the daily life of the residents in the vicinity.

12. As these rehabilitation works will be managed by Owners' Corporations (OCs) rather than professional project managers, it would not be realistic to expect the same expertise to be generally available where tender management and contract management are concerned. This is where LD sees the need for proactive monitoring.

13. With the assistance of the URA and the HS, we will shortly distribute a tailor-made leaflet which highlights the salient points of effective tender management and contract management with emphasis on dispute prevention and aims to arouse the awareness of OCs at the earliest possible moment when they plan to rehabilitate their buildings. A copy of the leaflet is at Annex for Members' advance information. As a prelude to the campaign, we issued letters in June 2007 to OCs of buildings undergoing or will undergo rehabilitation work under the financial assistance of URA with advice on suggested good practices so as to enhance their awareness of the need to monitor the labour relations between contractors and their employees. We have also established a communication system whereby these OCs can contact the designated officers of the respective Labour Relations Offices for advisory service when they need it.

14. The objective of this campaign is to deal with problems associated with buildings rehabilitation works at source and to facilitate the owners and the contractors concerned to work out the most desirable preventive system. Regular reviews will be undertaken to ensure and enhance effectiveness of the campaign.

Promotional and educational activities

15. On the publicity front, the LD has also stepped up efforts to educate construction workers on their rights and the need to report wage defaults at an early stage. We also educate employees on their right to lodge claims and the importance of serving as prosecution witnesses. In addition, promotional campaigns were mounted to remind employers of their statutory obligation to pay wages on time and to alert them to the penalty clauses and successful conviction cases. Our major publicity and promotional efforts include:

- launching a publicity campaign through the production of TV and radio Announcements in the Public Interest (APIs), bus advertising and posters to make the wage offence penalty widely known to the public;
- disseminating promotional leaflets targeting at employees and employers respectively on the seriousness of wage offences through various channels including trade unions in the non-government sector and employer associations; and
- publishing a leaflet to enhance the awareness of construction workers of their statutory rights. We have also produced a poster to remind construction workers of the major provisions on wage protection under the EO and encourage them to act as prosecution witness in wage default cases. They are displayed at various construction sites and trade unions. In addition, cardholders for construction workers have been produced and distributed to remind them to report wage defaults at an early stage.


Way forward

16. The Administration will continue to adopt a proactive and pre-emptive strategy on various fronts to enhance harmonious labour relations in the construction industry.

Labour and Welfare Bureau
Labour Department
July 2007

人事管理做得好 復修工程質量高

大廈復修工程
良好人事管理小錦囊

 勞工處
勞資關係科



在樓宇復修工程進行期間，承判商和分判商與屬下工人維持良好關係至為重要。一旦出現勞資糾紛，不單會影響工程進度，亦有可能影響業主。要確保復修工程能夠順利進行和業戶的權益得到保障，業主可參考以下八個良好人事管理小錦囊，加強工程合約的管理和推行有效的監管措施。

錦囊 1

承建公司要嚴選

- 除投標價格外，應考慮其他因素，以便選擇合適的承判商
- 要求入標承判商申報過往在工程施工、人事管理及準時支薪方面的表現

錦囊 2

分判層次要限制

- 限制不必要的分判活動
- 要求總承判商掌握及隨時提供所有分判商的名單

錦囊 3

書面合約要制訂

- 透過合約條款，規定承判商/分判商全面採用書面工程及僱傭合約，減低出現勞資糾紛的機會
- 規定承判商/分判商須遵守本地法例，包括有關勞工的法例(例如：強積金、職安健、僱員補償及僱傭方面的條例)，並為僱員投購勞保，以及不可聘用非法勞工



錦囊
4

工人進出要紀錄

- 登記工人的進出，並清楚紀錄工人姓名和僱主名稱，以方便管理，亦可防止閒雜人等出入大廈，保障業戶安全

錦囊
5

支薪安排要監管

- 定時查問承判商/分判商有否按照《僱傭條例》的規定準時發放工資
- 鼓勵承判商/分判商以轉賬形式支付工資

錦囊
6

僱傭紀錄要妥存

- 規定承判商/分判商要備存分判合約、僱傭合約及工人的支薪和出動紀錄

錦囊
7

舉報機制要完善

- 規定總承判商要監察分判商工人的支薪情況
- 總承判商須設立投訴機制，讓工人盡早舉報欠薪問題
- 設立預警機制，與勞工處建立夥伴關係，隨時通報勞資問題，避免問題惡化

錦囊
8

關鍵時期要留神


- 於欠薪高危時期（例如佳節將至、工程接近完工階段等），積極監察是否有欠薪情況



勞工處勞資關係科樂意與進行樓宇復修工程的業主攜手合作和提供支援，保障工人和業主的權益。如對本單張有任何查詢，歡迎透過以下途徑與本處聯絡：

 查詢熱線：2717 1771（此熱線由「1823政府熱線」接聽）

 互聯網網頁：<http://www.labour.gov.hk>

 親臨勞工處勞資關係科各分區辦事處：

港 島

東港島辦事處
香港灣仔告士打道5號
稅務大樓34字樓

西港島辦事處
香港薄扶林道2號A
西區裁判署3字樓

九 龍

東九龍辦事處
九龍新蒲崗太子道東698號
寶光商業中心12字樓1206室

西九龍辦事處
九龍長沙灣道303號
長沙灣政府合署10字樓1009室

南九龍辦事處
九龍旺角聯運街30號
旺角政府合署2字樓

觀塘辦事處
九龍觀塘鯉魚門道12號
東九龍政府合署6字樓

新 界

荃灣辦事處
新界荃灣西樓角道38號
荃灣政府合署5字樓

葵涌辦事處
新界葵涌興芳路166-174號
葵興政府合署6字樓

屯門辦事處
新界屯門屯喜路2號
屯門栢麗廣場27字樓2720室

沙田及大埔辦事處
新界沙田上禾輦路1號
沙田政府合署3字樓304-313室

This leaflet outlines tips for incorporated owners to prevent labour disputes arising from building rehabilitation works. For enquiries on the contents of this leaflet, please visit the offices of the Labour Relations Division of the Labour Department or call the enquiry hotline at 2717 1771 (the hotline is handled by "1823 Citizen's Easy Link").