

For information on
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Legislative Council Panel on Manpower

An overview of the recent labour relations scene in Hong Kong

Introduction

This paper briefs Members on the recent labour relations scene and Labour Department's (LD) proactive efforts to maintain and promote harmonious labour relations.

The recent labour relations scene

2. Early last year, Hong Kong's economy was hard hit by the global financial tsunami. There was severe economic contraction in the first quarter followed by gradual rebound in the second quarter and further improvement in the remaining half of the year. In the first quarter of 2010, the local economy regained its momentum and posted strong growth. Yet, the economic outlook has turned somewhat uncertain recently following the latest developments in the external environment and the rather fragile nature of the global economic recovery.

3. The economic success and social stability of Hong Kong are premised on our overall harmonious labour relations which cannot be achieved without the concerted efforts of employers, employees and the Government. Underpinning this is the effective and speedy voluntary conciliation services provided by the Labour Relations Service of LD for the private sector. We have also in place a safety net established under the Protection of Wages on Insolvency Fund (PWIF) to provide financial relief for employees in case of their employers' insolvencies. PWIF has all along played a pivotal role in helping maintain good labour relations.

4. LD has all along been promoting good people management measures and acting as a facilitator in encouraging employers to adopt family-friendly employment practices. Indeed, the promotion and publicity of these employee-oriented measures have enhanced harmonious workplace relations. While most of the employers in Hong Kong are law-abiding, there are some unscrupulous employers who wilfully default in the payment of righteous earnings and benefits to their employees. Therefore, alongside our preventive

and facilitative measures, LD takes a targeted approach in combating wage offences to safeguard employees' rights and benefits with stern enforcement actions.

5. More details of LD's efforts in 2009 and early 2010 are given in the ensuing paragraphs.

Measures to maintain and promote harmonious labour relations

Proactive monitoring and timely conciliation to defuse and resolve labour disputes

6. In 2009, LD handled a total of 24 448 labour disputes¹ and claims², an increase of 18% over 20 743 in 2008. In terms of labour disputes, the number in 2009 increased by 19% (from 120 to 143) over the preceding year. In particular, the number of labour disputes involving business closures, insolvencies and redundancies increased significantly by 30% (from 54 to 70) over the preceding year. Despite the rise in the number of cases, LD managed to keep a high level of settlement rate at 71.5% in 2009.

7. In the first four months of 2010, LD handled 6 764 labour disputes and claims, a decrease of 4% when compared to the same period in 2009 (7 058). The labour relations scene was evidently more stabilised with the significant drop in the number of labour disputes by 58% (from 59 to 25). Labour disputes involving business closures, insolvencies and redundancies recorded an even greater drop of 74% (from 31 to 8) over the same period in 2009. The settlement rate has further improved to 72.8%.

8. Facing the challenges in 2009, LD adopted multiple measures to contain the impact of the economic setback on the labour relations scene. We endeavoured to proactively monitor sectors and enterprises which were more prone to be affected and provide timely conciliation and assistance to affected employers and employees. We worked closely with enterprises and employees' groups to foster harmonious labour relations, and adopted a pragmatic approach in helping enterprises and employees resolve labour-management differences through dialogues as well as mutual understanding and adjustments. Alertness to staff concerns and sentiments effectively enabled enterprises to take early actions to defuse conflicts with employees. As a result, LD had successfully forestalled a number of potential labour disputes before they erupted into full-blown conflicts.

¹ A labour dispute is a case involving more than 20 employees.

² A claim is a case involving 20 or fewer employees.

9. Where the disputes and claims cannot be resolved by conciliation, LD will assist the parties to seek adjudication with the Labour Tribunal or the Minor Employment Claims Adjudication Board, depending on the amount of claims. LD is also dedicated to providing comprehensive assistance to aggrieved employees, including application for ex-gratia payment from PWIF, referral to the Legal Aid Department (LAD) to file winding up or bankruptcy petition against their employers for defaulted wages and benefits and to the Social Welfare Department for financial or emotional assistance.

PWIF as safety net to assist employees whose employers become insolvent

10. The trend of applications for PWIF accorded with that of disputes and claims in the period. Reflecting the impact of the global financial tsunami, the number of applications received in 2009 increased by 13% (from 6 448 to 7 260) over the preceding year. Along with improvements in the local economy, PWIF received 1 619 applications in the first four months of 2010, a drop of 42% as compared to the corresponding period in 2009 (2 788). As at the end of April 2010, the accumulated surplus of PWIF stood at a healthy level of \$1,867.1 million.

11. LD is committed to simplifying and improving the procedures to verify applications for PWIF with a view to processing the applications more efficiently on the one hand and preventing abuses of PWIF on the other. Applicants are no longer required to attend interviews at the Wage Security Division of LD under normal circumstances. A set of guidance notes and document list is provided to the applicants to facilitate their submission of information and documents required. We have also made extensive use of the computer system of LAD to follow up case progress and handle applicants' enquiries.

12. In line with the established policy to progressively improve PWIF's coverage, the Fund Board agreed at its meeting in February 2010 to expand the scope of PWIF to cover pay for annual leave and statutory holidays not yet taken by employees in insolvency cases³. The proposal was also supported by the Labour Advisory Board and the Panel on Manpower of the Legislative Council (LegCo). Drafting of the bill to amend the Protection of Wages on Insolvency Ordinance to give effect to the proposal is in progress and the Bill will be introduced into LegCo in the next legislative session to enhance workers' protection.

³ The Fund Board proposed that the scope of PWIF be expanded to cover (a) annual leave pay under the Employment Ordinance (EO) for annual leave accumulated and not yet taken by an employee, subject to the limit of his last year of employment with a maximum of seven to 14 days' pay as per the employee's length of employment; and (b) holiday pay under the EO for statutory holidays not yet taken by an employee within four months prior to his last day of service; subject to the payment ceiling of \$10,500.

Promoting the Employment Ordinance, good people management measures and family-friendly employment practices

13. On the publicity and promotion front, LD has been organising various activities such as talks, briefings and roving exhibitions for employers, employees, human resources practitioners and members of the general public with a view to promoting better understanding of the Employment Ordinance (EO) and good people management practices. A wide range of publications covering different themes have also been produced for free distribution to the public. LD will continue to make use of various publicity channels to remind employers to stay vigilant of fulfilling their statutory obligations to pay wages and employee benefits on time.

14. Making the workplace family-friendly is a shared responsibility of the entire society. In this respect, LD has been acting as a facilitator to encourage employers to adopt family-friendly employment practices (FFEP), such as family leave benefits, flexible hours of work, five-day week and employee support schemes, etc. so as to assist employees to maintain a balance between work and family responsibilities. To enhance public awareness on the subject, a booklet was published in February 2009 to showcase exemplary examples in the implementation of FFEP and other good people management measures. Moreover, a large-scale seminar on employer-employee collaboration and FFEP was organised in September 2009, which attracted the attendance of over 300 participants, including representatives of employer and employee organisations, employers as well as human resources practitioners. Furthermore, a video was produced to promote the advantages of and dispel common misconceptions about FFEP, for the purpose of encouraging wider adoption of such practices at the workplace. The new DVDs (produced from the video on FFEP) have been widely disseminated to various stakeholders and the public.

15. LD will continue to promote EO, good people management practices and FFEP through various activities and channels, as well as our network of 18 Human Resources Managers Clubs formed in various trades and industries.

Combating wage offences to protect employees' earnings

16. LD has continued with its rigorous enforcement against wage offences. A complaint hotline (2815 2200) is in place to facilitate employees to report wage offences. Speedy investigation will be conducted into the complaints upon receipt of such intelligence. In 2009, there were 1 314 convicted summonses for wage offences compared with 958 convicted summonses in 2008. From January to April 2010, there were 673 convicted summonses on wage offences, as compared to 362 convicted summonses secured in the

corresponding period in 2009. With effective deterrence, the number of disputes and claims involving non-payment of wages handled by LD in 2009 recorded a much milder increase of 2% over the preceding year, as compared to 18% for the overall disputes and claims. In the first four months of 2010, the number of wage disputes and claims handled dropped by a much higher percentage of 12% over the same period in 2009, as compared to 4% for the total disputes and claims.

Way forward

17. LD will continue to liaise closely with the business sector and employees' groups and stay alert to labour relations incidents in the offing. In particular, we shall work closely with enterprises susceptible to economic downturn and provide timely conciliation and assistance to affected employers and employees to help resolve their disputes. We will continue to spare no efforts in promoting harmonious labour relations and protecting employees' rights and benefits through rigorous enforcement.

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