

LegCo Panel on Manpower

Surveys on lay-off conducted by the Labour Department

Introduction

At the meeting of the LegCo Panel on Manpower held on 21 December 1999, Members requested the Administration to provide more details on the findings of the two surveys on lay-off conducted by the Labour Department. This paper provides the information sought.

Definition of Lay-off

2. Under the Employment Ordinance (EO), an employee is taken to be laid off and eligible to claim severance payment if his employer has failed to provide him work or pay on either :

- (a) more than half of the total number of normal working days in any period of 4 consecutive weeks; or
- (b) more than one-third of the total number of normal working days in any period of 26 consecutive weeks.

Findings of the surveys

First Survey

3. The first survey was conducted from May to July 1997. Of the 41 143 persons who made consultations in person with the Labour Relations Division (LRD) of the Labour Department, only 203 (or 0.49%) alleged that they had been under-provided with work.

4. Of these 203 employees, 144 met the qualifying criteria for lay-off. The breakdown is as follows :

- (a) 143 employees alleged that they had not been provided with work on more than half of the total number of normal working days in 4 consecutive weeks; and

- (b) 1 employee alleged that he had not been provided with work on more than one-third of the total number of normal working days in 26 consecutive weeks.

5. The remaining 59 employees did not meet the qualifying condition because the non-provision of work did not exceed half of the total number of normal working days in the relevant 4-week period. A breakdown of the 59 employees is as follows:

<u>No. of normal working days not provided with work or pay in the past 4 consecutive weeks</u>	<u>No. of employees</u>
1 – 3 days	7
4 – 6 days	10
7 – 9 days	17
10 – 12 days	25
Total	59

Second Survey

6. In the second survey conducted from July to September 1998, a total of 288 (or 0.53%) out of 53 835 persons who made consultations in person with the LRD alleged under-provision of work.

7. Of these 288 employees, 178 employees satisfied the qualifying conditions for lay-off. The breakdown is as follows :

- (a) 128 employees alleged that they had not been provided with work on more than half of the total number of normal working days in 4 consecutive weeks.
- (b) 50 employees alleged that they had not been provided with work on more than one-third of the total number of normal working days in 26 consecutive weeks.

8. The remaining 110 employees did not meet the qualifying criteria in the definition of lay-off. The breakdown is as follows :

- (a) 67 employees alleged under-provision of work for a period ranging from 1 to 3 weeks. As the time period of under-provision of work or pay was less than 4 weeks, they did not meet the qualifying condition.
- (b) 43 employees alleged under-provision of work for a period ranging from 4 to less than 26 consecutive weeks. However, the non-provision of work did not exceed half of the total number of normal working days in the period. They therefore did not meet the qualifying condition.

9. A breakdown of the 43 employees in para. 8(b) above is as follows :

<u>Time period of under-provision of work or pay</u>	<u>No. of employees</u>
4 weeks	13
5 weeks	11
6 weeks	10
7 weeks	2
8 weeks	2
9 weeks	2
20 weeks	3
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Total	43

10. The above survey findings show that the existing definition of lay-off already accords adequate protection to employees. There is no strong justification for revising the definition since prolonged periods of under-provision of work are not significant.

Labour Department
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