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Labour Department (Headquarters)

勞工處 (總處)

Your reference 來函編號 : CB2/PL/MP
Our reference 本處檔案編號 : LD/CR 814/1
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17 July 2008

Mr Raymond LAM
Clerk to Panel/Chief Council Secretary (2)1
Council Business Division 2
Legislative Council Secretariat
3rd floor, Citibank Tower
3 Garden Road
Hong Kong

Dear Mr LAM,

Panel on Manpower

List of follow-up actions (Items 3 & 10) Protection of Wages

I refer to items 3 and 10 of the Panel's List of follow-up actions (position as at 13 June 2008) requesting the Administration to provide information relating to the prevention of abuse of the Protection of Wages on Insolvency Fund (PWIF) and the number of cases of arrears of wages reported by Labour Relations Officers. Our response is as follows.

Prevention of abuse of the PWIF (Item 3)

With respect to Members' proposal to require all restaurant proprietors to provide bank guarantees for the statutory entitlements of employees, Labour Department (LD) has conducted a thorough study and sought advice from the Department of Justice. We are of the view that the proposal would pose an irrational and disproportionate requirement on a particular industry. It may also be in breach of the principle of equality and non-discrimination and is likely to contravene the Hong Kong Bill of Rights.

In respect of the prosecution of suspected fraudulent cases involving the PWIF, since the inception of the interdepartmental Task Force on PWIF in November 2002 and up to March 2008, LD has recorded 267 convicted summonses under the Employment Ordinance and the Protection of Wages on Insolvency Ordinance against persons involved in fraudulent cases concerning applications to the PWIF. As for fraudulent cases investigated by the Hong Kong Police Force, one employer, one manager and one employee had been convicted and sentenced to imprisonment for 6 months to 12 months. Moreover, the Official Receiver's Office also applied to the court for disqualifying responsible persons of companies involved in fraudulent PWIF cases from being directors, and taking part in promotion, formation or management of a company. Altogether, 23 persons were so disqualified, with the disqualification period ranging from 2.5 to 5 years.

LD is committed to clamping down relentlessly on employers who evade their wage liabilities with a view to forestalling wage defaults from developing into applications for the PWIF. In 2007, there were 960 convicted summonses on wage offences, up 22% over 785 in 2006. During the first quarter of 2008, 245 convicted summonses on wage offences were recorded, up 35% over 182 during the same period in 2007.

It is encouraging to note that, partly as a result of enhanced enforcement actions, the number of applications received by the PWIF fell to 4 836 in 2007, down by 36% over 7 532 in 2006. This was a record low since 1990. As for the catering industry, the number of applications also dropped by 38% to 1 098 in 2007. For the first quarter of 2008, the numbers of PWIF applications received overall and in respect of the catering industry stood respectively at 1 117 and 255, down 23% and 31% over the same period last year.

Labour Relations Officers (LROs) (Item 10)

The Administration was also requested to provide the Panel with the number of labour disputes¹/claims² involving arrears of wages which were reported by LROs, and information on whether LROs had been

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

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

unfairly treated by the principal contractors for having reported the cases to LD. The requested information provided by the Development Bureau (DEVB) and Housing Authority (HA) is set out below for Members' reference:

From 1 May 2006³ to 31 March 2008, LROs working in the construction sites of DEVB and HA referred a total of 12 wage-related claim cases to LD for conciliation service. During the same period, there was neither referral of labour disputes nor complaint that LROs had been unfairly treated by the principal contractors for having reported the cases to LD.

Yours sincerely,



(Byron NG)
for Secretary for Labour and Welfare

³ The measures to monitor wage payment in public works and building projects commenced on 1 May 2006.