

For information on
16 November 2006

LegCo Panel on Manpower

Wage Protection Movement for Cleansing Workers and Security Guards

Introduction

The Chief Executive (CE) announced in his Policy Address on 11 October 2006 that the Government would join hands with the business community and labour sector to launch a Wage Protection Movement (WPM) for cleansing workers and security guards. This paper sets out the modus operandi of the WPM and the Administration's strategy in taking it forward.

How is “wage protection” implemented?

2. Under the WPM, enterprises pledge to offer market wage rates to cleansing workers and security guards (both under their direct employ and outsourced service contracts) and these workers should be suitably compensated if they have to work beyond contractual working hours. Enterprises should also enter into written employment contracts with their direct employees and require their contractors to do so for their own workers.

3. Specifically, enterprises should, through entering into written employment contracts with cleansing workers and security guards under their direct employ, offer these workers wages not lower than the relevant average market rates as stipulated in the Census and Statistics Department (C&SD)'s Quarterly Report of Wage and Payroll Statistics (Quarterly Report)¹ prevailing at the time employment is offered.

¹ For June 2006 (the latest figures):

- (a) the average monthly rate for “lavatory cleaners” under “sanitary and similar services”, at \$4,740, corresponded to an average of eight hours of work per day and an average of 26 working days per month. The corresponding hourly rate was \$22.8.
- (b) the average monthly rate for “general cleaners” under “sanitary and similar services”, at \$5,042, corresponded to an average of eight hours of work per day and an average of 26 working days per month. The corresponding hourly rate was \$24.2.
- (c) As for “guards” under “security and detective services”, the average monthly rates, at \$6,627 (two-shifts, an average of 11 hours of work per day), \$6,796 (overall average, an average of 10 hours of work per day) and \$6,358 (three-shifts, an average of eight hours of work per day), corresponded to an average of 26 working days per month. The corresponding hourly rates were \$23.2, \$26.1 and \$30.6 respectively.

4. Consistent with the objective of the WPM and to ensure that wage protection would not be undermined as a result of sub-contracting, enterprises which outsource their cleansing and guarding services should require their contractors and sub-contractors to follow the same practices by specifying the terms in the tender document and/or service agreement. If further sub-contracting is allowed, the main/principal contractor will be responsible for handling any non-compliance of the sub-contractors in respect of the wage requirement and the use of written employment contract. For outsourced workers, the wage rates to which reference should be made would be those prevailing when tenders are invited, or if no tendering is involved, when service contracts are offered.

5. Whilst contractors which provide cleansing and guarding services are often direct employers of cleansing workers and/or security guards, they are in effect service providers bound by the terms and requirements set by the service procurers (i.e. their clients). It may therefore be difficult for them to subscribe to the WPM from the outset. To this end, the Labour Department (LD) will mount a publicity campaign targeting, among other areas, at the major service procurer groups (such as major enterprises and owners' corporations) to promote the concept and practice of wage protection. More information is provided in paragraph 9 below.

6. Enterprises are encouraged to adopt the WPM terms for their direct employees as soon as possible. As for current service contracts, since it may be difficult to vary the conditions of existing contracts, it would be acceptable to apply the WPM terms to new or renewed contracts.

The Labour Department's Role

7. To tie in with the WPM, LD's free employment service for vacancies for cleansing workers and security guards will only be extended to those vacancies offering wages not lower than the average market rates as published in the Quarterly Report with effect from 27 October 2006. All LD's employment programmes (e.g. Youth Pre-employment Training Programme, Youth Work Experience and Training Scheme, Work Trial Scheme, and Employment Programme for the Middle-Aged) will also give priority to employers supporting the WPM.

8. Through the use of written employment contracts, LD will be able to resolve labour disputes and take enforcement action more effectively. Specifically, LD will conduct inspection to detect and investigate failure to pay wages according to the terms stipulated in the written employment contracts. It is important to note that late payment, under-payment and non-payment of wages constitute a criminal offence under the Employment Ordinance. On

conviction, an employer is liable to a maximum fine of \$350,000 and imprisonment for three years. Where appropriate, the Department will inform the participating enterprise concerned and/or the relevant employer association should the contractor fail to offer market wage rates in compliance with the terms stipulated in the service contract. The relevant enterprise can take whatever action as necessary to deter or penalise the deviant contractor, including seeking legal remedy for breach of contracts, debarring the contractor from providing service and/or bidding for contracts for a certain period of time. LD will provide free conciliation service in case of labour dispute in the usual way and take out prosecution for breaches of statutory requirements when wage offences are detected.

9. LD will vigorously promote wage protection through a package of publicity measures including screening radio and TV Announcements in the Public Interest (APIs), distributing publicity materials on the WPM, as well as reaching out to the stakeholders such as employer groups. The first radio API was launched on 1 November 2006. A dedicated website and an enquiry hotline, both manned by LD, for providing information on the WPM and handling enquiries will commence operation shortly. We shall regularly update the information on the website to enhance its user friendliness. Separately, a television API is currently under production and will be ready for screening next month. Posters and publicity leaflets are also being produced and will be distributed to enterprises and owners' corporations.

10. In recognition of the support of the WPM by socially responsible employers, a logo is being designed by LD for use by enterprises which join, and continue to comply with, the WPM.

All-embracing and Outreaching Approach

11. LD is working closely with the major chambers of commerce and employer groups to kickstart the movement. It has also approached a number of employer groups representing the small and medium-sized enterprises, as well as security service contractors and cleansing contractors groups to solicit their support. LD will also target the owners' corporations, which together employ a sizable number of cleansing workers and security guards.

Government's Mandatory Wage Protection Arrangement

12. The WPM is modelled on the mandatory wage arrangement for government outsourced service contracts introduced by the Hong Kong Special Administrative Region Government since May 2004. The wage arrangement has since been applied to all government departments and public bodies with

outsourced cleansing and guarding services. We have also encouraged subvented organisations and subsidised schools to follow suit. These concerted efforts have benefited over 30,000 workers so far. According to the latest estimate by C&SD, there were 100,700 cleansing workers and 86,700 security guards in the second quarter of 2006.

How will the WPM be monitored?

13. The Labour Advisory Board (LAB) will monitor the progress of the WPM. Indeed, employer members of the LAB and the employer groups/business chambers to which they belong play an important role in taking forward the movement. The LAB will be consulted on the methodology, criteria and mechanism to be adopted for assessing the overall effectiveness of the WPM. The Administration will also brief the Legislative Council (LegCo) Panel on Manpower regularly and put it fully in the picture as the movement progresses.

Mid-term and Overall Review

14. The Administration will conduct a mid-term review of the WPM in October 2007 (i.e. one year after implementation) to gauge the progress of the movement. An overall review will be conducted in October 2008 (i.e. two years after implementation) to evaluate the effectiveness of the WPM. As the CE made clear in his Policy Address, if the overall review finds that the WPM fails to yield satisfactory results, the Government will arrange to introduce into LegCo legislation for a minimum wage in the cleansing and guarding services sectors.

Concluding Remarks

15. The WPM is a pragmatic step taken by the Government in addressing an issue which carries far-reaching socio-economic implications and on which views of the community remain diverse. It is a significant and strategic move in ensuring that cleansing workers and security guards are paid the average market wages through non-legislative means. We urge the business community and labour sector to join hands with the Government to make this worthy cause a success.