

香 港 建 造 商 會
Hong Kong Construction Association

Bills Committee on Employment (Amendment) Bill 2009
Meeting on Monday 12 October 2009
Submission from The Hong Kong Construction Association Ltd.

The issues related to the Employment (Amendment) Bill 2009 (the Bill) have been extensively deliberated by our Members and we wish to make the following submissions.

HKCA is pleased to confirm our support in principle to the Labour Department's current proposal to consolidate the Employment Ordinance by enforcing deterrence measures upon irresponsible employers who deliberately failed to comply with the rulings of the Labour Tribunal (LT) and/or the Minor Employment Claims Adjudication Board (MECAB).

Failure of direct employers to settle the awards by LT and MECAB without reasonable excuses is unacceptable and should be deterred. The proposed amendments to cover willful default of awards comprising wages and entitlements with criminal liability applicable to direct employers under the Employment Ordinance, as it stands, strike a reasonable balance between those acts and omissions that would attract civil and criminal responsibilities.

HKCA considered it vital for the Labour Department to provide some clear and transparent rules on what constitute reasonable excuses. We are firm believers in the non-bias nature of both the legislative systems and similarly the law enforcement authorities in Hong Kong. Establishment of basic rules and guidelines would help to avoid perception of potential misinterpretation and misunderstanding to the general public and more importantly promulgating appropriate signals to unscrupulous employers of their potential liabilities.

Unlike other industries, construction workers have to work in accordance with the trade cycles of projects and to maintain optimal earnings, many workers have to move around and work at different project locations. There are many factors affecting their wages namely their practice trades, over-time and projects. Some of their direct employers have to go through a phenomenal amount of paper works to meet the 7 days paid-requirement, in many incidents, such requirement is impractical if not impossible. We understand the Labour Department is fully aware of the industry specific circumstances and wish to take this opportunity to request the Government to allow, in the Amendment Bill, to extend the maximum paid period to 14-days for general construction workers due to practical considerations.

7 October 2009