

政府總部  
民政事務局

香港灣仔  
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26 October 2010

**By Fax and e-mail**

Ms Flora TAI  
Clerk to the Panel on Administration  
of Justice and Legal Services  
Legislative Council Building  
8 Jackson Road  
Hong Kong

Dear Ms TAI,

**Panel on Administration of Justice and Legal Services  
Special Meeting on 30 September 2010**

At the captioned meeting, the Administration discussed with members on the five-yearly review of the criteria for assessing the financial eligibility of legal aid applicants. We would like to provide below a written reply on the efforts and measures taken by the Labour Department (LD) against Labour Tribunal (LT) defaults.

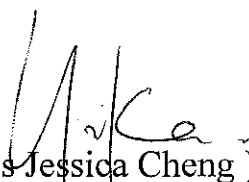
2. The execution of LT awards, as a judgment debt arising from civil law suit, is part of the remedies of the civil justice system. Despite that, LD has been much sympathetic towards the aggrieved employees and spared no efforts to assist them in the past couple of years. Where the employer is insolvent, LD will refer the affected employees to the Legal Aid Department (LAD) to file winding-up/bankruptcy petition against the employer and assist them to apply to the Protection of Wages on Insolvency Fund (PWIF) for ex-gratia payments in respect of wages and termination payments.

3. As a proactive and enhanced measure, LD has put in place the Award Enforcement Support Service since July 2008, whereby an officer in each of the Labour Relations Division branch offices is assigned to provide to employees information on modes of executing the LT award, assist in the application procedures of the PWIF and make appropriate referrals to relevant procedures of the PWIF and make appropriate referrals to relevant government departments such as LAD and Social Welfare Department for legal and financial aids respectively.

4. To uphold employees' rights under the labour legislation, LD has all along been taking stern enforcement actions for breaches of the Employment Ordinance (EO). The efforts in combating wage offences have resulted in increasing number of successful prosecutions, thus helping reduce the incidence of LT defaults. In 2009, there were 1 314 convicted summonses for wage offences, up 37% as compared with 2008. In the first eight months of 2010, there were 1 149 convicted summonses, further raising the figure by 39% over the same period in 2009. If there is sufficient evidence, LD will also prosecute culpable directors and responsible persons of the corporate employers for more forceful deterrence. In 2009, 347 convicted summonses were secured, up 74% as compared with 2008. In the first eight months of 2010, there were already 379 convicted summonses, surpassing the figure in the same period of 2009 by 79%.

5. Thanks for LegCo Members' support, LD has introduced a new criminal offence against employers who wilfully default LT awards for wages and other entitlements under EO, with a view to strengthening the deterrent effect. The related Employment (Amendment) Ordinance 2010 (EAO) was enacted in April this year and will come into operation on 29 October 2010. LD will conduct a wide range of promotional activities to enhance the public awareness of the EAO and will take stern enforcement actions to combat breaches of the new offence upon its commencement. LD will also closely monitor the implementation of the new offence and report to the LegCo Manpower Panel in due course.

Yours sincerely,



( Miss Jessica Cheng )  
for Secretary for Home Affairs

c.c. DLA (Attn: Mr William Chan)  
C for L (Attn: Mr Byron Ng)