

For information on
25 June 2019

Legislative Council Panel on Manpower

Initial Response of the Government to the “Arrangements for Suspension of Work during Natural Disasters and Emergency Situations Bill”

Introduction

On 20 June 2019, we received through the Clerk to this Panel Hon LUK Chung-hung’s “Arrangements for Suspension of Work during Natural Disasters and Emergency Situations Bill” (the Bill) and the relevant Legislative Council Brief. In view that the content of the Bill has far-reaching implications on the operation of different government bureaux and departments as well as private organisations, and that a number of technical issues have to be resolved, a more in-depth study would be required. As such, we can only afford at this stage an initial response to the matter.

Initial Response of the Government to the Bill

2. According to the relevant documents, the main purpose of the Bill is to provide for the implementation of suspension of work during natural disasters and emergency situations, stipulating that in the event of natural disasters or emergency situations, the Chief Executive in Council declares suspension of work according to the criteria set out by the “Contingency Committee for Natural Disasters and Emergency Situations” (the Committee).

3. The Bill proposes to establish a Committee comprising government departments directly involved in emergency relief work and members of the Labour Advisory Board as ex-officio members. The Committee will be responsible for formulating the criteria of suspension of work and conditions and mechanism of the application for exemption from suspension of work, as well as vetting and approving applications for exemption from such suspension. The Bill proposes that during the period of suspension of work, the suspension shall apply to all government bureaux and departments as well as public

authorities except those involved in emergency relief work. Personnel of private enterprises and non-government organisations (NGOs) should be suspended from work unless prior approval by the Committee has been obtained.

4. To legislate for suspension of work during natural disasters and emergency situations, pragmatic operational matters like the diversity in nature and requirements of different jobs in various trades and industries have to be taken into account. Some essential services (e.g. public transportation, public utilities, medical services, homes for the elderly or persons with disabilities, hotels and security, etc.) still have to maintain different degrees of operation under inclement weather conditions. Moreover, the circumstances of employees commuting from home to workplace in different districts are as varied as the impact of inclement weather on public transport and road systems there. Applying some pre-set criteria universally to regulate employees' work arrangements and rights and benefits during specific circumstances (including how long after cancellation of the typhoon warning signal should employees report for duty, what kinds of employees are required to work, etc.) may not be the most suitable, as the operational needs of different industries and the community as a whole, as well as the varying impact brought by individual disaster or emergency situation will be overlooked. The Bill strictly requires prior approval by the Committee for designated personnel of private enterprises and NGOs to work during the period of suspension of work for business needs. This not only pays no heed to the operational needs of different industries in times of inclement weather, it will also hamper the pace and flexibility of various social services and economic activities to resume normalcy. In practical terms, it may also not be workable.

5. The Bill also proposes that during the period of suspension of work, all government bureaux and departments as well as public authorities shall carry out the suspension of work except those involved in emergency relief work. If the Bill were supported, bureaux and departments would need to update their own standing departmental instructions and work plans, in the light of their operational requirements and the safety, needs and circumstances of their staff, as well as the need to resume normalcy in the society as soon as practicable. Whether the proposed mechanism can more effectively facilitate the recovery

efforts and protect the safety of staff compared to the existing mechanism¹ remains to be assessed.

6. In line with the Government's response made in the LegCo Panel on Security in relation to a similar Member's Bill, there is no genuine need at this stage to legislate on disastrous situations for two major reasons:

- (a) Insofar as the mechanism for handling disasters is concerned, the Government has been very effective in handling the preparedness for and response to natural disasters in accordance with the "Contingency Plan for Natural Disasters" through concerted efforts by bureaux / departments under committed leadership. While noting that there is room for improvement pursuant to a review conducted for the handling of extreme natural disasters, there is no need for further legislation.
- (b) The Government has proposed institutional enhancement for the handling mechanism. The proposed Steering Committee under the chair of the Chief Secretary for Administration will enhance the coordination of resources to manage the impacts on the resumption of work and operation of the community under "extreme conditions". The Government has already worked out the arrangement for resumption of work in which the public will be duly informed in advance in case "extreme conditions" are anticipated after cancellation of Typhoon Signal No.8 (T8).

Follow-up Actions Taken by the Labour Department on Revisions to the "Code of Practice in Times of Typhoons and Rainstorms"

7. After hit by Super Typhoon Mangkhut last September, the Government conducted a review of the mechanism for handling super typhoons. One of the outcomes of the review is the measures formulated to address the difficulties experienced by the public in resuming work after cancellation of T8. Under certain "extreme conditions" (such as serious disruption of public transport

¹ In the light of the experience of Super Typhoon Mangkhut, the Government has conducted a review on the mechanism for handling future super typhoons, including the arrangements for resumption of work. The Civil Service Bureau (CSB) was tasked specifically to examine the guidelines on arrangements for resumption of work by government employees after tropical cyclones. Having regard to the review results and considered the views from the staff side, CSB has revised and issued the updated guidelines on 4 June 2019. Bureaux and departments are to update their own standing departmental instructions and work plans, and to circulate the updated guidelines to all their staff periodically.

services, extensive flooding, major landslides and large-scale power outage), employees should be advised to stay in the places they are currently in, instead of heading for work immediately after cancellation of T8. In this regard, the Steering Committee under the chair of the Chief Secretary for Administration will review the situation and announce to the public before the Hong Kong Observatory replaces T8 with T3 whether “extreme conditions” apply and warrant postponing the time to resume work. If an announcement on “extreme conditions” is issued, the public (including employees) are advised to stay in the places they are currently in or safe places for two hours after cancellation of T8, instead of heading for work (or going out) immediately. During the first two-hour period when the “extreme conditions” are in force (i.e. after T8 is cancelled), the Government will continue to review the situation and advise the public again by the end of the two-hour period whether the “extreme conditions” will be extended or cancelled. During the period, employers and employees should stay alert to further announcement of the Government.

8. The “Code of Practice in Times of Typhoons and Rainstorms” (COP) published by the Labour Department (LD) provides advice and reference guidelines on matters pertaining to employees commuting to work, releasing from work and resumption of work in times of typhoons and rainstorm warnings. In connection with the aforesaid review outcomes and measures, LD has revised the content of the COP to remind employers to draw up in advance reasonable and practical work arrangements in times of typhoons, rainstorm warnings and “extreme conditions” after super typhoons and other adverse weather conditions with their employees. Employers should consult and engage employees in formulating relevant work arrangements and contingency measures. To raise the public’s awareness of the newly revised COP and the “extreme conditions” after super typhoons, LD will strengthen its promotional work towards employer associations, trade unions and human resources practitioners, etc., including arranging briefings and broadcasting television and radio Announcements in the Public Interest.

9. The current consensus between employers and employees on work arrangements under typhoons and rainstorm warnings is the result of repeated experiences, consultations and fine-tunings. LD will continue to launch promotional activities through various channels to publicise extensively the content and latest revisions of the COP, with a view to reminding employers to implement reasonable and practicable measures for employees having regard to

their actual circumstances, and to handle these with empathy and flexibility so as to achieve employees' safety, good labour-management relations and own establishments' smooth operation.

Labour and Welfare Bureau/ Labour Department
Civil Service Bureau
Security Bureau

June 2019