

CHAPTER 3

Do's and Don'ts for Operating an Employment Agency

Employment Agencies must

- ✓ fully comply with all laws of Hong Kong at all times, including but not limited to the Employment Ordinance, the Employment Agency Regulations, the Immigration Ordinance, the Trade Descriptions Ordinance, the Personal Data (Privacy) Ordinance, the Prevention of Bribery Ordinance, etc. when conducting employment agency business.
- ✓ ensure that the standards set out in the Code of Practice for Employment Agencies which the Commissioner for Labour expects are met.
- ✓ give proper advice to job-seekers and employers when explaining to them the relevant legislative provisions (e.g. the Minimum Allowable Wage for foreign domestic helpers, conditions of stay imposed on foreign workers under the Immigration Ordinance, rest day, statutory holidays, annual leave, sickness allowance and wage payment provided under the Employment Ordinance, etc.) concerning the employment. If employment agency has doubts on the provisions, it should advise the job-seekers / employers to consult the concerned government departments direct.
- ✓ draw up service agreements with job-seekers / employers and issue receipts for any payments received from them. Keep these receipts for record.
- ✓ licensee should fulfill his / her responsibility to manage the employment agency and ensure that it operates in a proper manner and in compliance with the laws as well as adopts fair trade practice and maintains transparency in business operations.

Employment Agencies must not

- ✗ keep the personal belongings of job-seekers (e.g. their passport / identity card, ATM card, employment contract, publications and leaflets distributed by the government, etc.) without their consent.
 - ✗ involve in the financial matters or personal loan of job-seekers (e.g. urging the job-seekers to make repayment to financial institution / overseas employment agency).
 - ✗ receive any payments in connection with seeking employment (e.g. photocopying fees, registration fees, photo-taking fees, deposit, etc.) from job-seekers other than the prescribed commission, or receive commission before the job-seekers have received the first month's wages after employment.
- ⚠ Overcharging job-seekers commission is a serious offence. Offenders will be prosecuted and will be liable to a fine of \$350,000 and imprisonment for 3 years. Upon conviction, the Commissioner for Labour will refuse to renew or will revoke their employment agency licences.**



✗ request or abet employers to make unlawful deduction of wages from the job-seekers (e.g. wage deduction for repayment of a loan to a third party or payment of commission to the employment agency), or to grant them rights and benefits less favourable than their statutory entitlements.

⚠ According to the Criminal Procedure Ordinance, any person who aids, abets, counsels or procures the commission by another person of any offence shall be guilty of the like offence.

✗ Licensee should not lend, transfer or assign his/her licence to another person.

⚠ Penalty for offence: fine of \$10,000.

▲ The Commissioner for Labour will consider any malpractice / illegal acts committed by the licensee of the employment agency and the associate of the licensee as well as their past records and background when determining whether he should refuse an application for licence renewal or revoke a licence.