

Wise Employers Pay Wages on Time

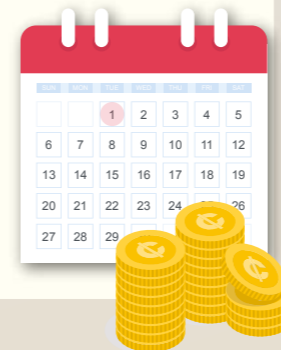


Liability to Pay Wages

The Employment Ordinance ("EO") stipulates that an employer should pay wages to an employee as soon as practicable but in any case not later than seven days after the end of the wage period or the day of termination of employment. An employer who wilfully and without reasonable excuse fails to pay wages to an employee when it becomes due is liable to prosecution and, upon conviction, to a fine of \$350,000 and to imprisonment for three years. In addition, the employer has to pay interest for the outstanding wages.

Directors and Responsible Persons of Body Corporates are Liable for Wage Offences

Also section 64B of the EO stipulates that, where a wage offence committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or responsible person of the body corporate, such person shall be guilty of the like offence and, upon conviction, is liable to the same penalty. Therefore, the criminal liability coverage of section 64B is very wide, and includes directors and responsible persons of the body corporates.



Employers' Responsibility to Pay an Award

Besides, the EO stipulates that if an award of the Labour Tribunal or Minor Employment Claims Adjudication Board ("a tribunal") provides for the payment by an employer of any specified entitlement¹ and the employer wilfully and without

reasonable excuse fails to pay the award within 14 days² after the date on which the sum is payable, the employer is liable to prosecution and, upon conviction, to a fine of \$350,000 and to imprisonment for three years. If a body corporate fails to pay an award of a tribunal, and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or responsible persons of the body corporate, such person commits the like offence as the body corporate and, upon conviction, is liable to the same penalty.



Labour Department Steps Up Enforcement Efforts in Combating Wage Offences

The Labour Department will conduct investigation into wage offence cases, including the liability of directors and responsible persons of a body corporate. If there is sufficient evidence, the Department would take out prosecution against them.

In the course of investigating wage offences, the Labour Department would also check if the employer, directors and responsible persons of a body corporate might have committed other offences while operating the business and managing the finance of the body corporate. If the Department detects that they might be involved in suspected offences such as illegal transfer of assets, theft of company money, evasion of liabilities by deception, and failure to keep proper accounting records, it would refer such cases to the Hong Kong Police Force and the Official Receiver's Office for follow-up action.

Enquiry hotline: 2717 1771
(The hotline is handled by "1823")



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1. "Specified entitlements" include wages and statutory entitlements underpinned by criminal sanctions under the EO, such as wages, end of year payment, maternity leave pay, paternity leave pay, severance payment, long service payment, sickness allowance, holiday pay, annual leave pay as well as terminal payments, compensation and further sum for unreasonable and unlawful dismissal awarded under the part on "Employment Protection" of the EO.
2. If the award does not specify the date on which the awarded sum is payable, the sum should be paid within 14 days after the date of the award.