



Recent Developments in the Regulation of Employment Agencies

[Be Alert Asia Pacific: employment law e-bulletin](#)

1 MAR 2018

By: Helen Colquhoun

There have been some key developments in relation to the regulation and licensing of employment agencies (EAs). Recent enforcement action by the Commissioner for Labour also evidences a growing trend towards closer monitoring of the activities of EAs and a willingness to revoke or fail to renew licenses for EAs who fail to comply with the required standards and regulations. For example, just this month, the Commissioner for Labour refused to renew the licence of an EA which had failed to meet various standards set out in the code of practice, such as failing to draw up service agreements with foreign domestic helpers and their employers. It is therefore crucial for EAs, their employees and management to familiarize themselves with (and conduct the business in compliance with) the law and the code of practice at all times.

The Employment (Amendment) Ordinance 2018

The Employment (Amendment) Ordinance (Ordinance) 2018 came into effect on 9 February 2018. In summary, the Ordinance:

- Raises the maximum penalty for the offences of (i) overcharging job-seekers and (ii) unlicensed operation of EAs from a fine of HK\$50,000 to a fine of HK\$350,000 and three years' imprisonment
- Extends the statutory time limit for prosecution of the above two offences from 6 months to 12 months
- Expands the scope of the overcharging offence to cover not only individuals employed by the EAs, but also certain persons associated with the EAs such as a director, manager and secretary or other similar officers
- Provides new grounds for the Commissioner for Labour to renew, revoke or refuse issuance of EAs' licence, such as non-compliance with the code of practice for EAs, and
- Provides a legal basis for the Commissioner for Labour to issue codes of practice for EAs setting out principles, procedures, guidelines and standards for the operation, management or control of EAs

[View a copy of the Ordinance.](#)

Revised Code of Practice for Employment Agencies

On the same day, 9 February 2018, the Commissioner for Labour promulgated a revised Code of Practice for Employment Agencies which supersedes the one promulgated in January 2017. Amongst other things, the major changes aim to:

- Reflect the new legislative requirements under the Ordinance
- Set out the service standards that EAs should observe in handling personal identification documents of job seekers

- Emphasize compliance with the Prevention of Bribery Ordinance (Cap 201), and
- Provide new sample forms for reference

View a copy of the revised Code of Practice for Employment Agencies.

If you are interested in any of the above issues and want to discuss further with us, please contact Helen Colquhoun, Head of Employment Hong Kong.

AUTHORS



Helen Colquhoun

Partner

Hong Kong | T: +852 2103 0808

helen.colquhoun@dlapiper.com
