

Make prior work arrangements for rainstorms

The Labour Department (LD) today (April 13) reminded employers to make prior work arrangements for staff during and after rainstorms as early as possible, including arrangements on reporting for duty, release from work, resumption of work and work from home (if applicable). These arrangements not only can ensure the safety of employees and smooth operation of establishments, but also are conducive to maintaining good labour-management relations.

"Employers should make prior work arrangements for staff and contingency measures. In drawing up and implementing the work arrangements, employers should give prime consideration to employees' safety and the feasibility for employees to travel to and from their workplaces. Employers should also give consideration as much as possible to the different situations faced by individual employees, such as their place of residence and the road and traffic conditions in the vicinity, and adopt a sympathetic and flexible approach with due regard to their actual difficulties and needs," an LD spokesman said.

"To avoid misunderstanding, disputes and confusion, employers should draw up the work arrangements in consultation with employees and make appropriate updates or amendments based on the experience of each occasion and the needs of both employers and employees as well as the actual situations."

The work arrangements should cover the following matters:

- * Arrangements in respect of reporting for duty;
- * Arrangements in respect of early release from work;
- * Arrangements in respect of resumption of work (e.g. the number of hours within which employees should resume duty after the warning concerned is cancelled, when safety and traffic conditions allow);
- * Arrangements in respect of work from home (e.g. duty and work arrangements during and after tropical cyclone and rainstorm warnings);
- * Arrangements regarding working hours, wages and allowances (e.g. calculation of wages and allowances in respect of reporting for duty and absence); and
- * Special arrangements in respect of essential staff in times of adverse weather.

"Employers should conduct a timely and realistic assessment of whether there is any need for requiring essential staff to report for duty at workplaces when a rainstorm warning is in force. In assessing the need for essential staff, employers should take into account the safety of employees, including the feasibility for employees to travel to and from their workplaces or work from home in adverse weather. Employers should also consider the business nature, operational needs and urgency of service, with

due regard to the manpower requirements, staffing establishment and individual situations of employees. Employers should require only absolutely essential staff to report for duty at workplaces in adverse weather conditions, and the number of essential staff at workplaces should be kept to a minimum as far as possible," the spokesman added.

"If an Amber, Red or Black Rainstorm Warning Signal is issued during working hours, employees working indoors should continue to work as usual unless it is dangerous to do so. Supervisors of employees working outdoors in exposed areas should suspend outdoor duties as soon as practicable. They should arrange for their employees to take shelter temporarily and resume duty only when weather conditions permit. When the Black Rainstorm Warning Signal is issued, those employees should not resume duty until the warning is cancelled and weather conditions permit. If the Black Rainstorm Warning Signal is still in force by the end of working hours, employees should stay in a safe place until the heavy rain has passed. A suitable area in the workplace should be made available by employers as temporary shelter for employees.

"Employers should provide transport services for employees who are required to travel to and from workplaces when the Black Rainstorm Warning Signal is in force, or grant them an extra travelling allowance.

"For staff who have practical difficulties in resuming work on time upon cancellation of a rainstorm warning, employers should give due consideration to the circumstances of individual employees and handle each case flexibly. For example, employers may permit employees who have difficulties in returning to workplaces to work from home or allow more time for them to report for duty and resume work.

"As rainstorms are natural occurrences that cannot be avoided, for employees who are not able to report for duty or resume work on time due to adverse weather conditions, employers should not withhold their wages, good attendance bonuses or allowances without reasons. Employers should enquire into the reasons and give due consideration to the exceptional circumstances in each case, and should not penalise or dismiss the employee concerned rashly," he said.

The spokesman also reminded employers to observe the statutory liabilities and requirements under the Employment Ordinance, the Occupational Safety and Health Ordinance, the Factories and Industrial Undertakings Ordinance, the Employees' Compensation Ordinance and the Minimum Wage Ordinance.

Employers should not deduct the annual leave, statutory holidays or rest days to which employees are entitled under the Employment Ordinance so as to compensate for the loss of working hours resulting from employees' failure to report for duty upon the announcement of a Black Rainstorm Warning Signal. An employer who without reasonable excuse fails to comply with relevant provisions under the Employment Ordinance is liable to prosecution.

Employers should also note that they have an obligation to provide and

maintain a safe working environment for their employees under the Occupational Safety and Health Ordinance. "If employees are required to work in times of rainstorms, employers should ensure that the risks at work are reduced as far as reasonably practicable," the spokesman said.

Under the Employees' Compensation Ordinance, employers are liable to pay compensation for deaths or injury incurred when employees are travelling by a direct route from their residence to their workplace, or from their workplace back to their residence after work, four hours before or after working hours on a day when Tropical Cyclone Warning Signal No. 8 or higher or a Red or Black Rainstorm Warning Signal is in force, or within the period (including any extended period) during which "extreme conditions" that arise from a super typhoon or other natural disaster of a substantial scale exist as specified in an "extreme conditions" announcement.

The LD has published the "Code of Practice in Times of Typhoons and Rainstorms", which outlines the major principles, the framework, the reference guidelines and information on relevant legislation on making work arrangements for the reference of employers and employees. The booklet can be obtained from branch offices of the Labour Relations Division or downloaded from the department's webpage (www.labour.gov.hk/eng/public/wcp/Rainstorm.pdf).