



Introduction

The Construction Industry Council (the "CIC") is concerned about recent incidents of unpaid wages in various construction projects, many of which involve disputes over the calculation of wages. To prevent workers' wages from being kept in arrears, the CIC has provided the Guidelines on Measures for Protection of Workers' Wages (Version 2 - March 2013) (the "Guidelines"), which suggested multiple measures for the adoption by parties including employers, consultants and contractors (especially stakeholders in the private sector). The CIC urges relevant stakeholders to adopt measures in the Guidelines, strengthen the operation procedures for managing wage records and properly store relevant data to avoid wage disputes, adhering to the principle of integrity. The CIC also encourages workers to be mindful of preserving complete records of wages to safeguard their employment rights.

1 Execute a Written Employment Contract (Please use the sample employment contract in the Guidelines)



- The employer should execute a written employment contract with the employee and declare in the contract that it is the parties' sole agreement on wages while clarifying the worker's status as an employee. Due to the significant differences in employment rights between employees, self-employed individuals or contractors, employees must thoroughly assess the risks and carefully evaluate the employment status to avoid misunderstandings or disputes. If the employee disagrees, the employer cannot unilaterally convert an employee into a self-employed individual or contractor. For more details, please refer to the Labour Department's leaflet, Clarifying Your Employment Status.
- The employer must provide the employee with a copy of the contract immediately after the written contract is signed or immediately after the procedure to validate the contract is completed.

2 Clearly Define and Agree on the Calculation of Wages

- The employer must clearly inform the employee of the conditions of employment, including the calculation of wages, the wage period, and the time of payment. The employee should also carefully review the contents of the employment contract. If any content is considered unclear, the employee should request the employer to explain it in detail.
- Unless otherwise specified in the employment contract, an employer cannot unilaterally change the employment conditions, such as wages, wage periods, and any allowances. Instead, the employer must clearly inform the employee of the change(s), obtain consent from the employee and properly record the relevant changes in writing.
- The Employment Ordinance prescribes the definition of wages, which refers to all remunerations, earnings, allowances (including travelling allowance, attendance allowance, commission, overtime pay), tips, and service charges that the employer pays to the employee in terms of money for work done or to be done, regardless of their names or the methods of calculation. Both the employer and the employee should pay attention to the exact definition of wages. For further details, please refer to A Concise Guide to the Employment Ordinance published by the Labour Department.
- **Some common methods of calculating wages include :**



i. "Time-based pay"

Calculating wages based on the length of working hours, for example, monthly salary, daily wage



ii. "Piece-rate pay"

Calculating wages based on the quantity of qualified products produced or the amount of work completed

- If "piece-rate pay" (commonly known as "piecework") is chosen, the employer and employee should clearly define qualified products, specify the mechanism of calculating the quantity of work and outline the payment terms to avoid possible disputes in the future.

3 Keeping Proper Record of Wages Paid

To effectively review the employees' payroll records, employers should arrange for wages to be paid through bank transfers or signed cheques, and properly file records of each employee's wages and employment history for the past 12 months according to the Employment Ordinance while reporting it accurately as required by any contractual terms in related projects.



4 Setting up Reporting Channels

- The principal contractor or the sub-contractor or the employer should appoint designated staff to monitor workers' attendance and wage payment records more effectively, including:
 - i. Reviewing copies of written employment contracts to confirm that wages are at a reasonable level, for example, by consulting wage-related reference materials published by relevant labour unions and attending to the definitions therein.
 - ii. Checking relevant payroll records to ensure that no worker's wage was defaulted.
 - iii. By implementing inspection and complaint policies, workers can be allowed to report the problem of defaulted wage payment(s). If necessary, related labour unions may be contacted to assist in mediating and resolving disputes.
 - iv. The Registered Specialist Trade Contractors Scheme established by the CIC includes mechanisms to investigate and take regulatory action against registered companies that may be in violation.



Please scan the following QR codes to learn more about the payment of wages, employees' rights, and the contract of employment:

Guidelines on Measures for Protection of Workers' Wages (Version 2 - March 2013)



(The sample employment contract can be found in Appendix B.1.)

Construction Industry Alert on Managing Wage Records



Clarify Your Employment Status Leaflet



"A Concise Guide to the Employment Ordinance"



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