

CONTROLLING OFFICER'S REPLY

FHB(FE)328

(Question Serial No. 3940)

Head: (49) Food and Environmental Hygiene Department

Subhead (No. & title): (-) Not specified

Programme: (-) Not specified

Controlling Officer: Director of Food and Environmental Hygiene (Miss Vivian LAU)

Director of Bureau: Secretary for Food and Health

Question:

1. Please set out the number of verbal warnings, written warnings and default notices issued, cases of deduction of monthly payments of service charge and demerit points given to non-skilled cleansing service contractors by the Food and Environmental Hygiene Department in the past 3 years in relation to violations of the Occupational Safety and Health Ordinance, the Standard Employment Contract, the Employment Ordinance and the requirements on the provision of equipment and gears to staff employed under service contracts, as well as defaults in severance payment and non-payment of wages by the non-skilled service contractors.
2. Please set out the number of cases in which non-skilled outsourced service contractors were penalised and demerit points were given in relation to violations of the Standard Employment Contract and the Employment Ordinance in the past 3 years. What penalties have been imposed?
3. Please advise on the number of reported cases of injury at work received by the Department in respect of non-skilled outsourced cleansing workers, parts of body involved and the reason(s) for the injuries, details of the follow-up actions taken by the Department regarding the reported cases of injury at work. If no follow-up actions have been taken, please state the reason(s). Has the Department considered increasing manpower to monitor the occupational safety and health of outsourced workers?

Asked by: Hon CHEUNG Chiu-hung, Fernando (Member Question No. (LegCo use): 2530)

Reply:

1. The total numbers of verbal warnings, written warnings and default notices issued by the Food and Environmental Hygiene Department (FEHD) to public cleansing service contractors, as well as deduction of monthly payments of service charge are provided in the following table –

	2015-16	2016-17	2017-18 (as at 28 February 2018)
No. of verbal warnings issued	2 116	2 547	1 928
No. of written warnings issued	118	852	106
No. of default notices issued	1 228	763	979
Amount of service charge payments deducted (\$ million)	2.718	3.898	2.089

Note : There is no demerit point registered against public cleansing service contractors in the past 3 years.

FEHD has no breakdown on the type of non-compliance.

- In the past 3 years, 1 case of breach of standard employment contract was substantiated regarding a cleansing contract for a municipal services building. It was related to exceeding the daily maximum working hours. 1 default notice was issued to the contractor concerned and deduction from relevant contract payment was made. In addition, 1 demerit point was registered.

Under the demerit point system, any breach of contractual obligations in connection with wage level; daily maximum working hours; the signing of the standard employment contract with non-skilled workers; and the payment of wages by means of autopay to them will lead to the issuance of a default notice. Each default notice attracts 1 demerit point. For any contractor who has, over a rolling period of 36 months, accumulated 3 demerit points obtained on or after 1 May 2006 from one or more government departments, its tender offer for service contracts that rely heavily on the deployment of non-skilled workers will not be considered for the next 5 years. If the contractor has any conviction of an offence relating to employment rights and benefits under the relevant sections of the Employment Ordinance (Cap. 57) and the Employees' Compensation Ordinance (Cap. 282), which individually carry maximum fines corresponding to Level 5 or higher within the meaning of Schedule 8 to the Criminal Procedure Ordinance (Cap. 221), its tender offer will also not be considered for a period of 5 years from the date of conviction.

- The contracts signed between FEHD and its service contractors stipulate that in the event of any of the contractors' employees suffering from any injury or death in the course of or arising out of the contract (whether or not a claim for compensation is involved), the contractor shall, within 7 clear working days, give notice in writing of such injury or death to FEHD. The contractors are also required to comply with all the legislation in relation to the execution of the service contracts, including the Occupational Safety and Health Ordinance (Cap. 509) (the Ordinance). The number

of reported cases received by FEHD on injury at work of cleansing workers employed under cleansing service contracts in the past 3 years is given below –

	2015-16	2016-17	2017-18 (as at 28 February 2018)
No. of reported cases on injury at work	94	65	62

The injuries sustained by cleansing workers at work in the reported cases were mainly sprains, strains, bruises, cuts and wounds in different parts of the body. Unintended collisions (with, for instance, a bicycle or a hand cart), slips, trips or falls on same level and lifting were common causes of injuries. If FEHD suspects a breach of the Ordinance in a reported case, the case will be referred to the Labour Department (LD) for investigation. If it is confirmed that the contractor has committed an offence under the Ordinance, LD will take appropriate action including instituting prosecution against the contractor. FEHD will also take action in accordance with the contract terms, including the issuance of verbal warnings, written warnings and default notices as well as withholding/deducting monthly payment of service charge.

The contractors have a duty to ensure, as far as reasonably practicable, their employees' safety and health at work. FEHD will offer appropriate assistance where circumstances and resources permit.

- End -