

# 《2018 年僱傭 ( 修訂 ) 條例》

**Employment (Amendment) Ordinance 2018**

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# Employment (Amendment) Ordinance 2018

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**HONG KONG SPECIAL ADMINISTRATIVE REGION**

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**ORDINANCE NO. 8 OF 2018**



Carrie LAM  
Chief Executive  
8 February 2018

An Ordinance to amend Part XII of the Employment Ordinance and the Employment Agency Regulations to increase the penalties for certain offences relating to employment agencies; to make certain existing offences applicable to persons associated with the holder of a licence to operate an employment agency and certain other persons; to amend the grounds for refusing to issue or renew, or for revoking, such a licence; to empower the Commissioner for Labour to issue codes of practice for employment agencies; and to provide for incidental and connected matters.

[9 February 2018]

Enacted by the Legislative Council.

**Part 1**

**Preliminary**

**1. Short title**

This Ordinance may be cited as the Employment (Amendment) Ordinance 2018.

**2. Enactments amended**

- (1) The Employment Ordinance (Cap. 57) is amended as set out in Part 2.
  - (2) The Employment Agency Regulations (Cap. 57 sub. leg. A) are amended as set out in Part 3.
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## Part 2

### Amendments to Employment Ordinance

#### 3. Section 50 amended (interpretation and application of Part)

(1) Section 50(1), English text, definition of *licence*—

**Repeal**

“accordingly.”

**Substitute**

“accordingly;”.

(2) Section 50(1)—

**Add in alphabetical order**

“*associate* (相關人士), in relation to a person, means—

- (a) if the person is a company—
  - (i) a related person of the person; or
  - (ii) an individual employed by the person;
- (b) if the person is a partner in a partnership—
  - (i) a related person of the person; or
  - (ii) an individual employed by the person or by the partnership; or
- (c) in any other case—an individual employed by the person;

***related person*** (有關連人士) means—

- (a) in relation to a company—a director, manager, secretary or other similar officer of the company; or
- (b) in relation to a partner in a partnership—
  - (i) another partner in the partnership; or

(ii) another person concerned in the management of the partnership.”.

**4. Section 51 amended (prohibitions in respect of the operation of employment agencies)**

Section 51—

**Repeal subsection (1)**

**Substitute**

“(1) A person must not operate, manage or assist in the management of an employment agency unless the person—

(a) is the holder of a licence or certificate of exemption issued in respect of the employment agency; or

(b) is an associate of the holder.”.

**5. Section 53 amended (refusal to issue, or revocation of, licences)**

(1) Section 53(1)(b)—

**Repeal**

“purposes; or”

**Substitute**

“purposes;”.

(2) Section 53(1)(c)—

**Repeal**

“person operating, or intending to operate, the employment agency”

**Substitute**

“licensee or the person intending to be the licensee”.

- (3) Section 53(1)(c)(ii), Chinese text—

**Repeal**

everything after “曾因”

**Substitute**

“以下罪行而被定罪：對兒童、青年或婦女犯了侵害人身罪，或犯了涉及身為三合會會員、欺詐、不誠實行為或勒索的罪行；”。

- (4) Section 53(1)(c)(iv)—

**Repeal**

“62; or”

**Substitute**

“62;”.

- (5) After section 53(1)(c)(iv)—

**Add**

“(iva) has not complied with a code of practice issued under section 62A(1); or”.

- (6) Section 53(1)(c)(v)—

**Repeal**

“agency.”

**Substitute**

“agency;”.



(7) After section 53(1)(c)—

**Add**

- “(d) (if the licensee or the person intending to be the licensee is a company or a partner in a partnership) that a related person of the licensee or person—
- (i) has, within the preceding 5 years, been convicted of an offence against the person of a child, young person or woman or of an offence involving membership of a triad society, fraud, dishonesty or extortion;
  - (ii) has contravened any provision of this Part or any regulation made under section 62; or
  - (iii) has not complied with a code of practice issued under section 62A(1); or
- (e) that an individual employed by the licensee or by the person intending to be the licensee—
- (i) has contravened any provision of this Part or any regulation made under section 62; or
  - (ii) has not complied with a code of practice issued under section 62A(1).”.

**6. Section 57 amended (prohibited acts in respect of employment agencies)**

(1) Section 57—

**Renumber the section as section 57(1).**

(2) Section 57(1)—

**Repeal**

“A licensee shall”

**Substitute**

“A licensee, or an associate of a licensee, in respect of an employment agency, or a person purporting to act as such a licensee or associate, must”.

- (3) Section 57(1)(b)—

**Repeal**

“his employment agency, the prescribed commission which he is permitted to charge and receive”

**Substitute**

“the employment agency, the prescribed commission”.

- (4) Section 57(1)(c)(i)—

**Repeal**

“licensee’s”.

- (5) Section 57(1)(c)(ii)—

**Repeal**

“licensee”

**Substitute**

“employment agency”.

- (6) After section 57(1)—

**Add**

- “(2) In this section—

*prescribed commission* (訂明佣金), in relation to an employment agency, means the commission that the employment agency is permitted to charge and receive as prescribed by a regulation made under section 62.”.

**7. Section 60 amended (offences)**

Section 60—

**Repeal subsections (6) and (7)**

**Substitute**

- “(6) A person who contravenes section 51(1) commits an offence and is liable on conviction to a fine of \$350,000 and to imprisonment for 3 years.
- (7) A person who contravenes section 57(1)(a) commits an offence and is liable on conviction to a fine of \$350,000 and to imprisonment for 3 years.
- (8) Despite section 26 of the Magistrates Ordinance (Cap. 227), a complaint may be made or an information laid in respect of an offence under subsection (6) or (7) within 12 months after the date of the commission of the offence.
- (9) A person who contravenes section 57(1)(b) or (c) commits an offence and is liable on conviction to a fine at level 5.”.

**8. Section 62A added**

Part XII, after section 62—

**Add**

**“62A. Codes of practice for employment agencies**

- (1) The Commissioner may issue codes of practice setting out principles, procedures, guidelines and standards for the operation, management or control of employment agencies.

- (2) The Commissioner is to make a copy of every code of practice available for inspection by the public free of charge during business hours at offices of the Government directed by the Commissioner.”
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## **Part 3**

### **Amendments to Employment Agency Regulations**

**9. Regulation 7 amended (company as licensee)**

Regulation 7(1)—

**Repeal**

everything after “name of”

**Substitute**

“an individual who is—

- (a) an associate (as defined by section 50(1) of the Ordinance) of the company; and
- (b) appointed by the company to operate, manage or assist in the management of the employment agency in respect of which the licence is issued.”.

**10. Regulation 10 amended (maximum fees and commission)**

Regulation 10(2)—

**Repeal**

“a licensee”

**Substitute**

“an employment agency”.