

For discussion
on 18 November 2004

LegCo Panel on Manpower

The proposal for prescribing maximum number of working hours in Hong Kong

Purpose

There have been calls recently within the Legislative Council (LegCo) and in the community for legislation to stipulate the maximum number of working hours in Hong Kong. The matter was the subject of a motion debate in LegCo at its sitting on 13 October 2004. This paper sets out the Administration's current position on the issue.

Background

2. The issue of setting statutory maximum working hours has been debated in the Legislative Council on various occasions in the past few years, the latest being the motion debate on 13 October 2004. There have also been calls from labour unions to set statutory maximum working hours to protect the interests of Hong Kong's workforce. However, views on the issue remain divided both within the Legislative Council and in the community.

3. At the meeting of the Economic and Employment Council held on 31 May 2004, the Hon Andrew Cheng Kar-foo tabled a proposal on statutory maximum working hours¹. The Administration undertook to study the proposal.

Pattern of hours of work of local workers

4. According to the results of the General Household Survey, as at the second quarter of 2004, the median hours of work of employed persons during the seven days before enumeration was 48 hours, which was identical to that of the past four years (i.e. from 2000 to 2003).

¹ The proposal recommended, among other things, to cap maximum hours of work at 44 hours per week, with a rate of overtime pay of not less than 125% of the regular rate.

There were 299 100 employed persons² working more than 60 hours a week, as compared with 244 600, 287 300 and 310 400 respectively in 2001, 2002 and 2003. Some 42% of these employed persons were engaged in the wholesale, retail and import/export trades, restaurants and hotels sector and 22% were engaged in the financing, insurance, real estate and business services sector.

5. As for the finer breakdown on the patterns of working hours, according to a Special Topic Enquiry carried out by the Census and Statistics Department in 2001, out of a total of some 2.3 million employees working in the non-government sector³, some 174 600 (7.6%) worked more than 10 hours a day and about 47 100 (2.0%) worked more than six days per week. In terms of overtime work, some 576 800 (25.1%) worked overtime during the week before the enumeration took place. Generally speaking, whilst their contractual working hours may be longer, employees at the lower end of the occupational hierarchy were more likely to have their overtime work being recompensed by overtime allowance or time-off in lieu⁴.

Guide on Rest Breaks

6. The Labour Department issued the “Guide on Rest Breaks” in July 2003 to encourage employers and employees to work out through consultation suitable rest break arrangements to meet operational needs of the business. The Guide was prepared by the Committee on Occupational Safety and Health under the Labour Advisory Board (LAB). Members of the Committee include employers’ and employees’ representatives as well as occupational safety professionals. Before its publication, the Guide was reviewed by LAB with extensive consultation with groups and organizations including industry-based tripartite committees and the Occupational Safety and Health Council.

² Excluding unpaid family workers and foreign domestic helpers.

³ Excluding self-employed, employers, unpaid family workers, foreign domestic helpers and employees who worked less than 35 hours due to vacation during the seven days before enumeration.

⁴ 66.5% of craft and related workers, 77.6% of plant and machine operators and assemblers and 68.4% of workers in elementary occupations were either compensated by overtime allowance or time-off in lieu.

Pros and Cons of Statutory Maximum Working Hours

Pros

7. In essence, proponents of the proposal to prescribe maximum hours of work maintain that unduly long working hours would have an adverse effect on employees' health, as well as on their family and social life. Employees would spend less time with their families and friends as a result of long working hours, thus creating potential family problems. They would also find it difficult to set aside time for continuing education and skills upgrading, thereby weakening the competitiveness of Hong Kong's human resources. Efficiency of work and productivity might decrease alongside an increase in the number of hours worked. Workers might be more prone to work-related accidents if they are made to work long hours without sufficient rest. It is also argued that more jobs will be created if the hours of work are restricted, thereby easing unemployment. Besides, with a cap on working hours, enterprises will likely revise their mode of operation in order to increase productivity, while employees will have more leisure time for entertainment and consumption. This in turn will boost the retail, catering and service sectors.

Cons

8. On the other hand, there are arguments that the proposal would undermine the flexibility of the labour market and business environment. In many sectors such as retail, hotel, insurance, real estate and domestic services, employees must be allowed to work flexibly because of operational needs. If a statutory ceiling were imposed on working hours, some employers and employees would be unable to appropriately adjust their operation of work. This could be detrimental to operational flexibility and result in the fragmentation of work, which would adversely affect job opportunities. Some also dismiss as a myth the point that more jobs would flow from the proposal as businesses might simply replace workers with machinery or even stop providing some services if they are no longer profitable. More importantly, employees may end up with less take-home pay as they are working fewer hours, which may be contrary to their wishes.

Complex Issue

9. With the advent of globalization and automation, the structure of the labour market has undergone fundamental changes. An obvious

example is the practice for enterprises to replace manpower by machinery or information technology, or outsource working procedures offshore. Should greater rigidity be introduced into the labour market, local enterprises may have additional incentive resorting to these measures to further reduce their reliance on manpower, especially in areas which are labour intensive or of less value-added, resulting in a net loss in job opportunities. Workers with lower skills level or educational attainment may suffer most. Indeed, many western economies are now moving towards the direction of achieving greater flexibility in the labour market to increase competitiveness.

Way Forward

10. Clearly, the issue of maximum working hours is complicated and carries a far-reaching impact on the future socio-economic development of Hong Kong. The Administration keeps an open mind on the matter. The Labour Department, together with the Government Economist and the Census and Statistics Department, is in the process of assessing the possible impact of introducing maximum working hours in Hong Kong, taking into account the socio-economic implications, both in the short and long term, as well as the merits and drawbacks of the proposal. We will analyze the characteristics of the groups of employees who are working longer hours with respect to the nature of their trade. More importantly, we will assess the implication on the cost of doing business. We will listen to the views of the community and those of the employer and employee sectors, as well as draw on overseas experience.

11. As a first step, we will put the matter, along with the issue on introducing a minimum wage, to the Labour Advisory Board (LAB) for discussion at its special meeting on 3 December 2004.

12. As with any labour policy initiatives, in examining the issue of maximum working hours, the Administration will strike a balance between the interests of employers and employees and will seek to build consensus among employers, employees and the Government.