

**Legislative Council Motion Debate on
“Legislating for ‘standard working hours’”
on 23 June 2010**

Progress Report

Purpose

At the Legislative Council meeting which commenced on 23 June 2010, the motion on “Legislating for ‘standard working hours’” moved by Dr Hon LEUNG Ka-lau as amended by Hon LI Fung-ying was carried. The wording of the motion is at Annex.

2. This paper briefs Members on the relevant work progress.

Standard Working Hours

3. Policies on employees’ rights invariably affect employers, employees, and the entire community and economy. It is the Administration’s established policy to progressively improve employees’ rights and benefits in a way that strikes a reasonable balance between employers’ and employees’ interests and which is commensurate with the pace of Hong Kong’s economic and social development.

4. Standard working hours is a complex issue. At present, employers, employees and various sectors of the community have divergent views on whether standard working hours should be introduced in Hong Kong. In view of Hong Kong’s socio-economic development, legislating for standard working hours will affect the labour market’s flexibility and business environment. Special operational needs may have necessitated flexible working hours in many industries, such as retail, hotel, insurance, real estate and tourism, etc. Legislating for standard working hours, besides hampering the flexible operation of enterprises, may also lead to fragmentation of jobs and an increase in casual or part-time jobs, thus affecting employees’ livelihood. Concomitant with a reduction in working hours could be a decrease in income which might not be in the interest of the employees concerned. Furthermore, Hong Kong has a large number of small and medium enterprises. The imposition of standard working hours will inevitably hinder business operation. Enterprises may choose to shift the costs to consumers by increasing prices.

5. As the issue would have far-reaching implications for Hong Kong's society and economy, we must be cautious in dealing with it and carefully consider the affordability of society. The rapid development of Hong Kong's economy over the past years has largely relied on our human resource which is noted for its flexibility and adaptability. The key to maintaining Hong Kong's competitive advantage is through striking an appropriate and sensible balance between preserving the competitiveness of Hong Kong and protecting workers' rights and interests. We will continue to formulate and implement the relevant policies and measures along this direction.

Protection of Employees' Rights and Benefits

6. We have all along attached great importance to protecting employees' rights and benefits. Besides the bill passed by the Legislative Council in April this year to amend the Employment Ordinance (Cap. 57) (EO) to create a new offence against wilful default of sums awarded by the Labour Tribunal or the Minor Employment Claims Adjudication Board, the Minimum Wage Ordinance (Cap. 608) (MWO) was also passed in July. The MWO aims to establish an optimal statutory minimum wage (SMW) regime which provides a wage floor to forestall excessively low wages but without unduly jeopardising Hong Kong's labour market flexibility, economic growth and competitiveness, and without causing significant adverse impact on the employment opportunities of vulnerable employees. If everything proceeds well and allowing time for the community to gear up for implementation, it is hoped that SMW would be fully implemented in the first half of 2011.

Employment Ordinance

7. We understand that prolonged working hours may have adverse impact on health as well as the family and social lives of employees. Therefore, the EO contains stipulations on an employee's right to take rest days, statutory holidays and paid annual leave. Employers and employees are also free to negotiate the terms and conditions of employment, including the hours of work and compensation arrangements for overtime work, provided that such terms and conditions are not inferior to the relevant provisions under the EO.

8. The EO further provides that an employer who without reasonable excuse fails to grant an employee the aforesaid statutory rights and benefits with regard to rest days, statutory holidays or paid annual leave is liable to prosecution and, upon conviction, to a maximum fine of \$50,000. To safeguard the rights and benefits of employees, the Labour Department (LD) has all along been taking rigorous enforcement actions against the relevant offences.

Family-Friendly Employment Practices

9. The Government has been actively promoting harmonious labour relations, encouraging employers and employees to have frank communication on the terms and conditions of employment, including arrangements for working hours and rest periods. We also encourage employers to adopt ‘employee-oriented’ good people management and family-friendly employment practices (FFEP), taking into account the circumstances of the employees as well as the operational needs of the organisation, so as to help employees balance their work and family responsibilities.

10. Encouraging employers to adopt FFEP has been one of the Government’s major promotional efforts. Recent key publicity and promotional activities include convening meetings of the Tripartite Committees and Human Resources Managers Clubs of different trades and industries, organising seminars and staging roving exhibitions in different districts, etc. In 2010-11, LD will further promote the FFEP message to employers, employees and the public through production of a new video suitable for mass media broadcasting.

Occupational Safety and Health

11. In addition, the Occupational Safety and Health Ordinance (Cap. 509) requires that an employer shall ensure, so far as reasonably practicable, the safety and health of their employees at work. In order to enlighten employers on their legal obligations, we publicise and promote proactively the importance of providing appropriate rest breaks for employees. Through the publication of the “Guide on Rest Breaks” (the Guide), we also encourage employers and employees to work out through consultation rest break arrangements which meet the different operational needs of various businesses. The Guide was formulated by the Committee on Occupational Safety and Health under the Labour Advisory Board following consultation with employers’ representatives, employees’ representatives and occupational safety and health professionals. LD will continue to widely publicise the Guide through different channels.

(Translation)

**Motion on
“Legislating for ‘standard working hours’ ”
moved by Dr Hon LEUNG Ka-lau
at the Legislative Council meeting commencing on
Wednesday, 23 June 2010**

Motion as amended by Hon LI Fung-ying

That, as Hong Kong is an economically developed city, yet most employees still need to work long hours, adversely affecting their personal health and family life and giving rise to many social problems, this Council urges the Government to legislate for ‘standard working hours’ according to the people-oriented principle to ensure a work-rest balance for employees.