

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1014/10-11(04)

Ref : CB2/PL/MP

**Panel on Manpower**

**Background brief prepared by the Legislative Council Secretariat  
for the meeting on 17 February 2011**

**Replacement holiday arrangements**

**Purpose**

This paper summarizes past discussions by the Panel on Manpower ("the Panel") on replacement holiday arrangements.

**Background**

2. Under the Employment Ordinance (Cap. 57) ("EO"), employees are entitled to holidays on the days specified therein as statutory holidays. In accordance with EO, if any of the first three days of Lunar New Year (which are statutory holidays) falls on a Sunday, the day immediately preceding Lunar New Year's Day (i.e. the first day of Lunar New Year) will be a statutory holiday. The General Holidays Ordinance (Cap. 149) also provides that if any of the first three days of Lunar New Year (which are general holidays) falls on a Sunday, the day immediately preceding Lunar New Year's Day will be a general holiday.

**Deliberations of the Panel**

3. At its meeting on 21 October 2010, the Panel received a briefing by the Secretary for Labour and Welfare on relevant policy initiatives in the Chief Executive's 2010-2011 Policy Address.

4. Noting that the Administration would review the existing arrangement for replacement holiday in the event a Lunar New Year holiday fell on a Sunday,

some members queried why the review of the existing arrangement for replacement holiday was so narrow. The Administration explained that it was provided under EO that if Lunar New Year's Day fell on a Sunday, the preceding day (i.e. Saturday) should be granted to employees as a replacement holiday. In recent years, there were concerns that those employees who worked five days a week from Monday to Friday with day-off on Saturday would then lose a day of Lunar New Year's holiday under this arrangement. There were also suggestions that the Administration should review the existing arrangement for replacement holiday in the event a Lunar New Year holiday fell on a Sunday.

5. Some members considered it more desirable to review in one go the replacement arrangement for all statutory holidays and public holidays should they fall on a Sunday or a Saturday.

6. The Administration advised that employees of different industries might have diverse work patterns, and the modes of operation of different establishments might differ widely. It would therefore be advisable for the Administration to study carefully the possible effects of introducing any change to the existing arrangement on employees, employers and the economy as a whole. The situation where Lunar New Year's Day fell on a Sunday would next arise in 2013. The Administration would, in the meantime, conduct a detailed study on the matter and consider the way forward in the light of the study outcome and the views of relevant stakeholders.

7. A member expressed concern about the arrangement for replacement holiday in the event that a statutory holiday clashed with the appointed rest day of an employee. The Administration advised that EO specifically provided that where a statutory holiday fell on an employee's rest day, the employee was entitled to a replacement holiday on the day after the rest day. By requiring the granting of rest days in addition to any statutory holidays, sufficient protection had been accorded to employees.

### **Related information**

8. At the Council meeting on 17 March 2010, Hon Fred LI raised a question on the replacement arrangements for statutory holidays. The Administration's reply to the written question raised by Hon Fred LI is in the **Appendix**.

**Relevant papers**

9. Members may access the LegCo website (<http://www.legco.gov.hk>) for details of the paper and minutes of meeting.

Council Business Division 2  
Legislative Council Secretariat  
14 February 2011

LCQ10: Statutory holiday  
\*\*\*\*\*

Following is a question by the Hon Fred Li and a written reply by the Secretary for Labour and Welfare, Mr Matthew Cheung Kin-chung, in the Legislative Council today (March 17):

Question:

Under the Employment Ordinance (Cap. 57), when Lunar New Year's Day falls on a Sunday, an employee shall be granted a statutory holiday by his employer on the day immediately preceding that day (i.e. Saturday). Yet, quite a number of members of the public have indicated that such provision in effect has rendered employees of companies and organisations which have responded to the Government's appeal and implemented the five-day week losing one day's holiday. It has been reported that the Chief Executive has indicated earlier that a study would be conducted on this matter. In this connection, will the Government inform this Council whether:

(a) it has commenced the study on amending the legislation; if so, of the progress of the study; if not, the reasons for that; and

(b) the Government has any preliminary idea as to the earliest time the proposed amendment to the legislation can be submitted to the Legislative Council for deliberation and scrutiny; if so, of the details; if not, the reasons for that?

Reply:

President,

Under the Employment Ordinance (Cap. 57) (EO), employees are entitled to holidays on the days specified therein as statutory holidays. In accordance with the EO, if any of the first three days of Lunar New Year (which are statutory holidays) falls on a Sunday, then the day immediately preceding Lunar New Year's Day (i.e. the first day of Lunar New Year) will be a statutory holiday. This stipulation is in line with the General Holidays Ordinance (Cap. 149) (GHO) which provides that if any of the first three days of Lunar New Year (which are general holidays) falls on a Sunday, then the day immediately preceding Lunar New Year's Day will be a general holiday.

The above arrangement under the EO and GHO in respect of the first three days of Lunar New Year falling on a Sunday has been implemented since 1982 having regard to the views then expressed (mainly by female employees) that a holiday re-arranged to Lunar New Year's Eve could facilitate employees' preparation of family reunion dinners in keeping with Chinese customs as well as better enable them to participate in the most valuable family gathering in the year.

We are aware that labour policy should keep abreast of times. Therefore, we constantly review the current labour legislation in the light of changing social circumstances and economic development. The next time when a statutory holiday and a general holiday have to be advanced to a Saturday in accordance with the EO and GHO will fall in 2013. In the meantime, the Government will study the issue carefully and consult stakeholders and the Legislative Council at an appropriate time.

Ends/Wednesday, March 17, 2010  
Issued at HKT 12:01