



香港人力代理總會有限公司

General Chamber of Hong Kong Manpower Agencies Ltd.

Policies relating to foreign domestic helpers and regulation of employment agencies

DOMESTIC HELPERS' REQUEST

The recent Indonesian Erwiana being physically abused has made the Hong Kong city carry a notorious name. Overseas workers in HK now condemn all others, the employer, the employment agency, the government of HK and the government of their home country in order to strive for more their rights. They now are asking for

1. *Scrap the 2-Week Rule*
2. *Enforce Maximum Working Hours*
3. *Allow staying out*
4. *Stop Illegal Agency Fees*

GENERAL SITUATION

Our chamber, General Chamber of HK Manpower Agencies Ltd, being the representative of around a hundred members wants to express our concern about this in respect to the legislation. The abused case is actually an individual case. Most of the employers and overseas domestic helpers are staying harmonically and happily together. Hong Kong is still their paradise and most welcome place to work overseas in the Asia.

To some extent, the employers are suffering quite a lot. Under the present rules, employers need to continue her helper's employment until contract finish even though their domestic helpers found a problem of long term disease or are pregnant. That is to say an employer needs to bear the expenses on treatment of the long term disease even though this is just a newly hired domestic helper. The employers need to continue the employment until contract finish. Similarly, employers, who hire a domestic helper to reduce the workload, are required to continue the employment of a pregnant domestic helper until the contract finish.

The burden to the employers are even more severe, especially to employers who hire Filipinos. This is due to the subsequent effect of the moratorium they

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implemented in the beginning of the year 2013 to force the employers in Hong Kong to bear not only the documentary expenses of deploying overseas applicants but also the agency fee in that side. The agency fee to hire a Filipino in HK surges from several thousand to around \$8000 to \$12,000 in 2013. Now, these overseas domestic helpers come to Hong Kong with only little payment required. Some Filipino domestic helpers make use of this loophole to have a free trip to Hong Kong. They come to Hong Kong at the expenses of the employer just to see if the employers are their preference. They quit the job in a short time and they get free air-tickets back to their home country. This is allowed under the present law as no matter for what reason, the employers need to pay them the return air-ticket. The resigning domestic helper can even get one additional month salary if they intend to. There are cases that the domestic helpers intentionally perform poorly or simply not to follow instructions of the employers. And the employers have no alternative but pay them one additional month salary to dismiss these domestic helpers. This is very unfair to the employers. Some employers need to experience several times of paying \$8,000 to \$12,000 before they are able to hire a domestic helper who really determined and sincere to work in Hong Kong.

EMPLOYERS' DIFFICULTIES

We now have a general picture of the employers' difficulties. And we come back to their requests one by one. The first '*1. Scrap the 2-Week Rule*' shall mean that we need to provide enough time for them to find another employer. So, applicants shall take the jobs indiscriminately to come to Hong Kong first as they have no need to spend much. They will be given enough time to find another employer if they do not like the job. And it's none of their concern how much the employer has paid for them. Secondly '*2. Enforce Maximum Working Hours*', due to special nature of the job duties, the domestic helpers may have opportunity and time to hang out the whole daytime and the actual job duties start until the employer comes back from the job. How would this hanging out time be counted? In some situation, their job duty is to accompany an elderly. Does it mean the employer needs to hire 2 or 3 domestic helper to carry out this job duty? We can foresee there will create a lot of conflicts in counting the working hours because it is very difficult to work it out. A possibility is the second request is to be enforced together with the '*3. Allow staying out*'. However, the Immigration Department had abolished this arrangement to allow staying out some years ago to facilitate the management. By the time of the staying out cancellation, the domestic helpers in Hong Kong was less than

100,000. As of now, there are more than 300,000 overseas domestic helpers in Hong Kong. The situation to manage 300,000 overseas domestic helpers are far more difficult.

Finally '*4. Stop Illegal Agency Fees*', at the moment, the employment agency is only allowed to collect 10% of first month salary from the overseas domestic helper. In consequence to this, agencies recover the expenses and get their services fee mostly from the employers. However, the unfair regulations imposed on the employers create pressure on them. And there are conflicts among the three parties, the employers, the overseas domestic helpers and the employment agencies. The employment agencies are attacked by both the employers and the overseas domestic helpers. Employers complain the employment agency work together with newly come overseas domestic helpers to cheat them money. However, they are not aware the respective deploying country such as Philippines actually set up rules to get their overseas domestic helpers greatest benefits. Overseas domestic helpers from Indonesia complain they need to pay very high training fee to the training schools even though they learn the tuition fee of a six-month training diploma course in Hong Kong is much higher than that they pay in their home country. Further to this, they are provided with free food and dormitory for training in their home country.

In the employment agency side, let us have a look on what they are obliged to after getting the allowed \$401, 10% of first month salary. Though the \$401 is meant for documentary expenses, there are a lot of tasks to be accomplished. These tasks include fetching them at the airport, accompanying them to process the HKID card application, giving them some briefings or leading them to the seminars to get accustomed to the environment, etc. In the course of 24 months, we are responsible for monitoring or give them assistance if there is a need. In some situation, say, if their overseas domestic helpers are driven out from the house by the employer for whatever reasons even in mid night and need immediate assistance, we are the one to give a hand right away. These agencies are also required to provide free food and accommodation to the dismissed maids. Accountability needs to be proportionated to the reward. With that only \$401 the employment agencies allowed, if the employment agency not able to fulfil this, they are not to blame for.

A further law formulation to ensure the overseas workers are not left

unattended in the 2-week stay after they are dismissed is necessary.

In view of the need to give the overseas helper's support, we are prone to giving them assistance and this should even be legitimated to become the employment agency obligation. However, the potentially incurred costs of 2-week accommodation and free food should not be borne by the employers as the employers already need to pay high agency fee, nowadays. The employment agency should be allowed recover their expenses by collecting all domestic helpers' service fee of one month salary, instead.

In Singapore, the employment agencies are allowed to collect 1 to 2 months overseas domestic helpers' salary* (details about this can be viewed from the link on the footnote) If our government wants to maintain the 10% employment agency fee, they may keep this 10% no change. However, a special employment service allowance for employment agency to deal with the overseas domestic helpers' potential costs after termination should be approved. Relevant laws should be enacted without delay.

Conclusion

Finally, we may draw to a conclusion that employers have already borne a lot of the domestic helpers' expenses. This is far in contrast to what the domestic helpers pay. It is the time we need to take into consideration that the domestic helpers need also to share the costs of any additional support to them.

In the long run, a self-regulatory body of employment agencies should be established. As at the moment, anyone can hold themselves as an employment agent. They may not be trained. They may mislead employers. The self-regulatory body enables the registration of all practitioners, setting up the training system to improve the professionalism of and strengthening public confidence in the employment industry.

***Note:**

<http://www.mom.gov.sg/foreign-manpower/employment-agencies/Pages/Faq-FeeCaps.aspx#sthash.2qumFduR.dpbs>

<http://www.mom.gov.sg/foreign-manpower/employment-agencies/Pages/Faq-FeeRefundRequirement.aspx#sthash.PVxlz6b0.dpbs>

<http://www.mom.gov.sg/foreign-manpower/passess-visas/work-permit-fdw/before-you-apply/Pages/employer-requirements.aspx#change>

<http://www.mom.gov.sg/foreign-manpower/employment-agencies/Pages/Summary-of-response-from-public-consultation.aspx#sthash.F5qACgUM.dpbs>

<http://www.mom.gov.sg/foreign-manpower/employment-agencies/Pages/Faq-FeeRefundRequirement.aspx#sthash.mDvaNmba.dpbs>