

For information on
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Legislative Council Panel on Manpower

Findings of a Survey on Statutory Holidays and General Holidays Taken by Employees in Hong Kong

Purpose

This paper reports the findings of a survey on statutory holidays (SHs) and general holidays (GHs) taken by employees in Hong Kong.

Background

2. Under the Employment Ordinance (Cap. 57) (EO), irrespective of his length of service, an employee is entitled to 12 days of SHs a year. The employee is further entitled to holiday pay if he has been employed under a continuous contract¹ for not less than three months before an SH.

3. On the other hand, the General Holidays Ordinance (Cap. 149) (GHO) specifies 17 days of GHs, in addition to Sundays, in each year on which banks, educational establishments, public offices and government departments need not open. GHO does not oblige employers to grant their employees day-offs during GHs nor to offer pay to employees on GHs. Whether an employee has day-offs on GHs and whether these day-offs are with pay or not are matters agreed between the employer and the employee concerned and not governed by law. In other words, granting of GHs or not and whether or not they should be paid is entirely a matter of voluntary arrangement between the employers and their employees. As a matter of practice, some individual employers grant GHs (be they with or without pay) to their employees as a term of employment having regard to their own circumstances (e.g. mode/nature of business operations and the need to attract and retain quality staff). This is different from SHs which is a statutory entitlement of all employees under EO.

¹ Under EO, an employee who has been employed continuously by the same employer for four weeks or more and has been working for at least 18 hours each week is regarded as being employed under a continuous contract.

Survey conducted

4. For the purpose of understanding the proportions and characteristics of employees taking SHs and GHs in Hong Kong, the Labour Department (LD) commissioned the Census and Statistics Department (C&SD) to collect relevant data through a supplementary questionnaire² to the General Household Survey conducted in the second quarter of 2011 (Q2 2011). In that round of survey, a total of 19 967 households were enumerated. The major findings of the survey are presented below.

Proportions of employees taking SHs and GHs

5. On the basis of the survey conducted by C&SD in Q2 2011, out of a total of 2 757 000 employees in Hong Kong, 85.0% (2 343 500 employees) were employed under a continuous contract for more than three months and hence were entitled to paid SHs, while 15.0% (413 600 employees) were entitled to SHs but might not be taking paid SHs as they were either not employed under a continuous contract or had been employed for less than three months at the time of survey.

6. Although employers are not statutorily obliged to grant GHs (with or without pay) to their employees, the survey results show that among the 2 343 500 employees entitled to paid SHs as mentioned in paragraph 5 above (i.e. after discounting the 413 600 employees not entitled to paid SHs) :

- (a) 1 365 400 employees (49.5%) were taking GHs;
- (b) 852 200 employees (30.9%) were not taking GHs; and
- (c) 125 900 employees (4.6%) were not certain whether they were granted GHs or there were no fixed arrangements for taking GHs³.

Relationship between the type of holidays taken and the number of working days in a week

7. Employees taking only SHs worked 5.9 days a week on average while those taking GHs worked 5.3 days a week on average. Analysed by occupation and by industry sector, employees who took SHs only generally worked more days a week than those who also took GHs.

² Government employees, outworkers and live-in domestic workers are not covered in the survey.

³ Examples of these employees include relief workers, non-live-in domestic helpers and private tutors.

Relationship between the type of holidays taken and occupation / industry sector

8. Analysed by occupation, employees who were in the higher-skilled occupational groups (e.g. managers and administrators, professionals) tended to enjoy GHs, while those in the lower-skilled occupational groups (e.g. service and sales workers) tended to be granted SHs only. For example, the percentage of employees being managers and administrators, professionals and associate professionals, and clerical support workers who were entitled to paid SHs and were also taking GHs ranged from 79.6% to 92.5%, whereas the percentage of employees being service and sales workers, craft and related workers, plant and machine operators and assemblers, and those engaged in elementary occupations who were entitled to paid SHs and were also taking GHs ranged from 19.0% to 28.1%.

9. Analysed by industry sector, 70.9% (or 289 600) employees working in the retail, accommodation and food services sector were taking SHs only. The corresponding percentages in other sectors ranged from 17.0% in import/export trade and wholesale sector to 49.4% in the manufacturing sector.

Cost impact assessment

10. While the survey did not specifically capture information on whether those respondents taking GHs were with pay or not, according to our experience, it is rare for employers to deduct the salary of employees in those months with GHs simply because of the existence of GHs in the months concerned. On the basis of the assumption that those 1 365 400 employees who were taking GHs were with pay, an increase in the number of SHs to align with GHs would affect the remaining 978 100 employees who were entitled to paid SHs, accounting for 35.5% of all employees or 41.7% of employees entitled to paid SHs. This number included 852 200 employees (paragraph 6(b) above) who were entitled to paid SHs and taking SHs only and 125 900 employees (paragraph 6(c) above) who were entitled to paid SHs but were not certain of whether they were granted GHs as well and those who had no fixed arrangements for taking GHs.

11. Taking 978 100 employees as the basis for estimating the cost on employers if there were an increase in the number of SHs, and if all employers of these employees were to hire substitute workers to fully make up for the manpower loss owing to additional SH entitlements of these employees, the Government Economist estimated that the overall increase in annual compliance cost (based on 2011 wage level) would be as follows:

- (a) \$0.37 billion for one additional day of SH;

- (b) \$0.73 billion for two additional days of SHs;
- (c) \$1.10 billion for three additional days of SHs;
- (d) \$1.46 billion for four additional days of SHs; and
- (e) \$1.83 billion for five additional days of SHs.

12. In case a small number of the 1 365 400 employees were indeed taking GHs without pay, then the estimated cost on employers arising from an increase in the number of SHs would go up further, though it may not be significant. As live-in domestic helpers were not covered in the survey, the above cost impact assessment has not included the additional compliance cost (or the loss of manpower if no substitute worker is hired) to be borne by employers of some 330 000 foreign domestic helpers (FDHs) who are all live-in domestic helpers.

Salient points to note

13. The estimated compliance cost accounted for the cost arising directly and solely from an increase in the number of SHs. It did not take into account indirect costs which might not be fully quantifiable. Such indirect costs might include the administrative cost of re-allocating manpower, and hiring and training workers to replace employees who are on holidays, or the cost induced by chain or ripple effect of an increase in the number of SHs. The assessment did not show the possible impact of a legislative increase in the number of SHs on business growth, labour supply and demand, and the economy as a whole.

14. The survey indicated that the low-paying sectors i.e. restaurants, estate management, security and cleaning services, food processing and production, laundry and dry cleaning services, and retail in general had higher proportions of employees taking paid SHs only. Therefore the cost impact of increasing SHs would be felt more heavily in these low-paying sectors than in the rest.

15. The cost impact assessment quoted above was purely static in nature and did not reflect the dynamic interplay of the various effects of an increase in the number of SHs. To quote an example, increasing the number of SHs could prompt more people to engage in various holiday activities such as shopping or dining out, thereby creating more business for certain sectors (e.g. catering and retail industries) while exerting pressure on the sectors concerned in terms of manpower demand, the cost of hiring replacement workers and other operating costs, especially amidst the prevailing shortage of labour in these sectors. More consumption activities could benefit these sectors as the increased compliance cost arising from more SHs might, to different extents, be passed on to the customers.

16. The International Labour Convention (ILC) No. 97, which applies to the Hong Kong Special Administrative Region, requires the ratifying members to provide no less favourable treatment to migrant workers as to nationals in respect of employment benefits. If EO is amended to increase the number of SHs, the amendment has to be equally applied to some 330 000 FDHs as well as other imported workers in accordance with ILC No. 97. Some employers of FDHs and imported workers might have concerns on this.

17. Any increase in the number of SHs will be applied across the board to all employers. In deliberating the way forward, careful consideration would need to be given to the potential impact that such a legislative change might have on employers (e.g. small and medium-sized enterprises (SMEs) as well as FDH employers) who might be less resilient in coping with the rise in operating cost and/or cut in manpower.

18. Notwithstanding the above, the estimated compliance cost was based on the assumption that all employers hire substitute workers to make up for the manpower loss arising from employees taking SHs. If any employers were able to maintain the productivity owing to manpower loss through other means, the cost involved might be reduced.

Holidays for employees in neighbouring economies

19. According to the information gathered by LD, among the 11 neighbouring economies of Hong Kong, the number of holidays designated specifically for employees range from 0 (as in Japan) to 13 days (as in Thailand) per year (Annex). In providing 12 days of SHs, Hong Kong is close to (with the difference of one day) Thailand which ranks top in the number of holidays designated specifically for employees among the aforesaid economies. Moreover, Hong Kong is not the only economy that has two separate systems on holidays, viz. holidays designated specifically for employees and holidays for designated establishments. Six of our neighbouring economies, namely, Korea, Japan, Macau, Malaysia, Taiwan and Thailand, also adopt different arrangements in respect of general holidays and holidays designated for employees.

Consultation with the Labour Advisory Board

20. The findings of the survey, together with information on the holiday arrangements of neighbouring economies, were reported to the Labour Advisory Board (LAB) on 14 January 2015. The views expressed by members of LAB are set out in paragraphs 21 to 24 below.

Views of employer members

21. Employer members generally had concerns over the impact on manpower, efficiency, and cost of doing business should there be an increase in SHs, especially on SMEs and mini-enterprises. Some also worried that employers (particularly those in the catering and retail industries) might not be able to recruit sufficient replacement workers during the additional SHs given the manpower shortage problem that Hong Kong was facing. They also expressed concerns over the possible adverse impact on the many FDH employers whose household support would be affected by an increase in SHs of their FDHs. Some also added that it was not an opportune time to increase the number of SHs given the aggravating labour shortage problem in the coming years as projected by the Government.

22. There were also views that the number of SHs in Hong Kong did not compare any less favourably with its neighbouring economies. There are other economies having two systems of holidays similar to Hong Kong. An increase in the number of SHs would undermine the competitiveness of Hong Kong's economy.

Views of employee members

23. Employee members considered that the cost, efficiency, and manpower impact of an increase in SHs should not be overstated as employers did not always need to hire substitute workers for relieving employees taking holidays. They emphasised that more holidays for employees would benefit both employers and the community as this would enhance economic growth, promote employees' health and well-being, foster better family relationship, enhance morale, increase productivity and reduce incidents of injury at work. Some opined that employers of FDHs would not object to an increase in SHs as these employers could also have more time with their families during holidays.

24. In comparing the holiday benefits of employees in Hong Kong with those in the other economies, employee members were of the view that the issue of the number of days of SHs should not be singled out but instead should be viewed together with the overall employment conditions of employees in these places.

Way Forward

25. On the requests of LAB members, LD will collect more information to facilitate further discussion of the subject.

Labour and Welfare Bureau
Labour Department
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**Arrangement of
Holidays Designated for Employees and General Holidays
in Neighbouring Economies of Hong Kong**

	Number of holidays designated for employees (A)	Number of general holidays (B)	Difference (B)-(A)
Thailand	13	15	2
Hong Kong	12	17	5
Malaysia	12	14	2
Philippines	12	12	-
Australia	11-12 ⁱ	11-12	-
New Zealand	11	11	-
Singapore	11	11	-
Mainland China	11	11	-
Macau	10	20	10
Taiwan	9 ⁱⁱ	11	2
Korea	1	15	14
Japan	0	15	15

The above information is based on an online search conducted by LD in December 2014. The number of holidays of individual places may vary from time to time.

ⁱ In Australia, 8 public holidays are provided to employees nationwide, whereas a state or territory may prescribe additional public holidays to be observed generally within the state or territory. In 2015, the numbers of public holidays observed by different states/territories are either 11 or 12.

ⁱⁱ According to Taiwan's legislation, employees working in factories are entitled to 9 days of holidays per year while employees working in non-factory settings are entitled to 19 days of holidays per year.