

# 立法會 *Legislative Council*

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## **Panel on Manpower**

### **Background brief prepared by the Legislative Council Secretariat for the meeting on 10 February 2015**

#### **Alignment of statutory holidays with general holidays**

#### **Purpose**

This paper summarizes the major concerns raised by Members since the Fourth Legislative Council ("LegCo") on alignment of statutory holidays with general holidays.

#### **Background**

2. Under the Employment Ordinance (Cap. 57) ("EO"), all employees, irrespective of their length of service, are entitled to holidays on the days specified therein as statutory holidays (commonly referred to as "labour holidays"). Currently, 12 days of statutory holidays are stipulated under EO. General holidays, on the other hand, as provided for under the General Holidays Ordinance (Cap. 149) ("GHO"), are days on which banks, educational establishments, public offices and government departments need not open. At present, there are 17 general holidays in a year in addition to Sundays.

#### **Members' deliberations**

##### Disparity in the number of holidays for employees

3. Members noted with concern that different numbers of holidays were provided for different employees under EO and GHO. There was a view that the non-alignment of labour holidays with the general holidays was an unfair and discriminatory policy against employees engaged in service industries, especially grassroots workers, who were normally provided with 12 days of

statutory holidays with pay in a year. Given the differentiation between blue-collar and white-collar workers had become less distinct following economic restructuring in Hong Kong over the years, most members were of the view that it was high time for the Administration to review the respective entitlements of statutory holidays and general holidays under the two Ordinances. They called on the Administration to expedite the alignment of the statutory holidays with the general holidays, i.e. increasing the statutory holidays to 17 days in a year.

4. Some other members, however, cautioned that alignment of the number of statutory holidays with general holidays would incur additional staff cost, which would impose a heavy financial burden on employers, in particular the small and medium-sized enterprises ("SMEs"). Given the far-reaching implications on Hong Kong's society and economy, it was pointed out that the impact on business operation and costs should be carefully assessed in contemplating increase in the number of statutory holidays.

5. According to the Administration, statutory holidays and general holidays, instead of making a distinction between blue- and white-collar workers at the outset, were two types of holidays with different nature and backgrounds. General holidays, as provided for under GHO, were days on which banks, educational establishments, public offices and government departments needed not open and they were primarily holidays for the relevant establishments. Statutory holidays or the so-called "labour holidays", on the other hand, were benefits accorded to employees which employers had to provide under EO. The current stipulation of 12 days of statutory holidays under EO was determined on the basis of a community consensus after extensive consultation.

6. The Administration further advised that it constantly reviewed the labour legislation in the light of the changing social circumstances and the pace of economic development to ensure that a reasonable balance between the interests of employers and employees was struck, and that the statutory rights and benefits accorded to employees kept abreast of times. A consensus of the community at large was also important. Enhancing the existing holiday benefits under EO would inevitably have impact on employers, especially SMEs which represented 98% of the enterprises in Hong Kong, and families employing some 300 000 foreign domestic helpers. The Administration would need to study the matter carefully. Nevertheless, employers were encouraged to offer their employees benefits over and above the requirements of EO, say, by granting more holidays in addition to statutory holidays, having regard to their operational needs and individual circumstances.

Survey on the taking of statutory holidays and general holidays by employees

7. To have a better picture of the employees taking the two types of holidays, members sought information on the respective numbers of employees who were entitled to 17 days of general holidays and 12 days of statutory holidays every year and the respective percentages of these employees in the total working population as well as the industries to which they belonged. In addition, members enquired about the overseas practices in the provision of statutory holidays and general holidays.

8. The Administration advised that according to information gathered by the Labour Department ("LD") in 2011, out of 10 neighbouring countries or areas, six (i.e. the Philippines, Korea, Malaysia, Japan, Macao and Taiwan) had different practices in respect of general holidays and designated holidays for employees. On the other hand, four of the neighbouring countries or areas (i.e. Australia, Singapore, Mainland China and New Zealand) had only one single system on holidays and there was no separate legislation on general holidays and holidays for employees. The numbers of holidays ranged from eight to 11 days per year. Members were also advised that in respect of the number of statutory holidays designated for employees, Hong Kong ranked third among 12 neighbouring economies according to the information gathered in early 2013.

9. The Administration further advised that LD had commissioned the Census and Statistics Department ("C&SD") to collect statistics on the number and distribution, as well as the trades and occupations, of employees taking statutory holidays and general holidays respectively in Hong Kong so as to have a better grasp of the issues. C&SD had completed the relevant data collection and the relevant data analysis was being conducted. After consulting the Labour Advisory Board, the Government would revert to the Panel on Manpower on the study findings in early 2015. Members were assured that the Administration would consult the relevant stakeholders, including employers and employees groups, and the public before taking a view on the matter.

**Relevant papers**

10. A list of the relevant papers on the LegCo website is in the **Appendix**.

**Relevant papers on  
Alignment of statutory holidays with general holidays**

<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
Legislative Council	17.3.2010	<u>Official Record of Proceedings (Question 10)</u>
Legislative Council	27.10.2010	<u>Official Record of Proceedings (Question 19)</u>
Panel on Manpower	17.3.2011 (Item IV)	<u>Agenda</u> <u>Minutes</u>
Legislative Council	21.12.2011	<u>Official Record of Proceedings (Question 1)</u>
Legislative Council	4.7.2012	<u>Official Record of Proceedings (Question 2)</u>
Panel on Manpower	25.1.2013 (Item V)	<u>Minutes</u>
Finance Committee	11.4.2013 (Sixth meeting)	<u>Minutes</u> <u>(Chapter XVII)</u>
Panel on Manpower	28.5.2013 (Item IV)	<u>Minutes</u>
Panel on Manpower	27.1.2014 (Item IV)	<u>Minutes</u>
Finance Committee	3.4.2014 (Sixth meeting)	<u>Minutes</u> <u>(Chapter XVIII)</u>