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**Panel on Manpower**

**Report of Subcommittee to Study Issues Relating  
to Standard Working Hours**

**Purpose**

This paper reports on the deliberations of the Subcommittee to Study Issues Relating to Standard Working Hours ("the Subcommittee").

**The Subcommittee**

2. The Subcommittee was appointed by the Panel on Manpower on 10 February 2015 to study and follow up the policy on standard working hours ("SWH") and related issues, and to make recommendations where necessary. The terms of reference of the Subcommittee are in **Appendix I**. The Subcommittee commenced work in January 2016.

3. Hon POON Siu-ping and Hon CHAN Yuen-han were elected as Chairman and Deputy Chairman of the Subcommittee respectively. The membership list of the Subcommittee is in **Appendix II**. The Subcommittee held a total of four meetings, and received views from 47 deputations on various issues of concerns at one of these meetings. A list of the deputations and individuals which/who have given views to the Subcommittee is in **Appendix III**.

**Background**

4. The former Chief Executive ("CE") announced in his 2010-2011 Policy Address that subsequent to the enactment of the Minimum Wage Ordinance (Cap. 608), the Government would embark on a policy study on SWH so as to lay a solid and objective foundation for public discussion on the issue. The Labour Department was assigned the task and released the Report of the Policy Study on Standard Working Hours in late November

2012. According to the findings of the report, the subject of SWH was highly complex and controversial. It involved a myriad of interrelated social and economic issues which were far more complicated than those in deliberating the introduction of statutory minimum wage ("SMW"). It also impacted on a much wider spectrum of employees. It was therefore imperative that the community should deliberate these issues thoroughly before coming to a view on this important subject.

5. The Government announced in April 2013 the formation of the Standard Working Hours Committee ("SWHC"), which was tasked to follow up on the Government's policy study on SWH, promote understanding of this subject and related issues, and advise CE on the working hours situation in Hong Kong including whether a statutory SWH regime or any other alternatives should be introduced.

## **Deliberations of the Subcommittee**

### Concerns over working hours situation

6. Members note from the major findings of the working hours survey conducted by SWHC in 2014 that among the 3.14 million employees in Hong Kong in 2014 (excluding government employees and live-in domestic workers), the average and median weekly total working hours were estimated at 43.5 and 44.0 hours respectively. Working hours of employees of different sectors varied significantly with median weekly working hours ranging from 40.0 to 54.0. Employees with lower educational attainment (Secondary 3 or below) and employees engaged in lower-skilled occupations had longer median working hours of 48.0 and 45.0 respectively. Of all employees, 25.2% (790 700) had performed overtime work during the seven days before enumeration, and 7.3% (228 300) had overtime work with pay and/or time-off in lieu.

7. Some members are concerned about the long hours of work faced by some employees as it may have adverse effect on their physical and mental health as well as their family and social life. They consider that regulating working hours would enhance employees' occupational safety and health by curbing unduly long working hours. These members are also concerned that some employees may not be compensated for their overtime work. To strengthen protection of the rights of employees and promote work-life balance among them, these members have strongly called on the Administration to legislate for prescribed SWH. Members are advised by the labour organizations that they generally suggest a weekly SWH at 44 hours, overtime compensation at 1.5 times of the basic pay rate and conferring employees the right to choose to work overtime.

8. Some other members, however, object to the introduction of uniformed working hours legislation. They share the concern of the employers' group that the introduction of SWH would undermine the flexibility of operation and increase the manpower cost of enterprises, particularly for the small and medium enterprises which represent 98% of the companies in Hong Kong. Given that different working hours arrangements are already in place depending on the work nature and requirements of different sectors or occupations, it would be for employers and employees to agree on the working hours having regard to the varied circumstances of individual enterprises. The employer groups have advised the Subcommittee that as a matter of fact, employers have expressed stronger reservations towards the introduction of SWH in Hong Kong than the introduction of SMW.

9. Members who object to the introduction of SWH have called on the Administration to handle the matter prudently, having regard to the complexity of the issue and the divergent views of the labour sector and employers. In the light of an ageing workforce and the problem of labour shortage in some specific trades and industries, these members have cautioned that SWHC should take into account the possible impact on the labour market structure in its deliberation on legislating for SWH.

10. The Administration has advised that most lower-skilled workers with lower educational attainment are engaged in labour-intensive service sectors, and have their overtime work compensated. On the other hand, workers with higher skills such as professionals have shorter contractual working hours, but many of them have worked overtime without compensation which considerably prolonged their total working hours. Members are further advised that the phenomenon of relatively long working hours in Hong Kong and overtime work arrangements would be areas to be studied under the subject of SWH. The Administration acknowledges that the subject of SWH is far more complicated and controversial than the introduction of SMW. Therefore, it is imperative that the community should deliberate the far-reaching implications on the social and economic aspects before coming to a view on such an important subject.

#### Work progress of SWHC

11. Some members have expressed strong disappointment at SWHC's slow work progress. They consider that SWHC should be able to come up with concrete recommendations on the way forward for the issue of working hours, given that it has already taken more than three years to study the subject matter.

12. According to the Administration, SWHC has worked at full steam since its establishment, namely enhancing public understanding; collecting working hours statistics and information relevant to a working hours regime; launching public engagement; and adopting an evidence-based approach for discussion on the basis of a range of factors with a view to promoting informed and in-depth discussion in the community on working hours issues. In addition, SWHC completed a territory-wide working hours survey and the first-stage consultation in 2014. The reports of the working hours survey and the first-stage consultation are available at SWHC's website (<http://www.swhc.org.hk/en/resources/index.html>).

13. Most members are gravely concerned that given that the tenure of the Fifth Legislative Council ("LegCo") and the current term Government would expire in 2016 and 2017 respectively, the relevant legislative process for the introduction of a statutory SWH regime would be under a very tight timetable even if the Administration decides to take forward the proposal. According to the Administration, SWHC has not yet come to a view on the policy direction on SWH, including whether legislative means is the way forward. SWHC would adhere to its work plan closely and carry out informed and in-depth discussion on working hours issues with a view to building consensus and identifying working hours policy options suitable for Hong Kong. The Administration keeps an open mind on the matter which would be further studied by SWHC.

#### Working hours policy directions being explored by SWHC

14. The SWHC has launched a three-month public consultation exercise on the policy directions for working hours from 25 April 2016 ("the second-stage consultation"). Members are advised that with reference to the findings of the working hours survey and the first-stage consultation completed in 2014, SWHC has deduced several principles and suggestions on working hours policy directions, including (a) an in-principle agreement to explore a legislative approach to mandate written employment contracts specifying working hours arrangements of employees in general ("big frame" as referred to by SWHC); and (b) exploring, on the premise of the "big frame", whether there is a need for other suitable measures to further protect grassroots employees with lower income, lower skills and less bargaining power ("small frame" as referred to by SWHC). In view of this, SWHC would collect views on the following four working hours policy directions in the second-stage consultation:

- (a) only implementing the "big frame";
- (b) only implementing the "small frame";

- (c) on the premise of implementing the "big frame", to implement the "small frame" as well; and
- (d) not to implement the "big frame" nor "small frame" but recommend implementing other policies/ measures pertaining to working hours.

15. Members note that SWHC has set out in the consultation document the data analyses and results of impact assessments of 28 parameter combinations (comprising different total monthly wages of employees, weekly working hours and overtime pay rates) on employees, enterprises and the overall economy. Some members criticize that the assessments under different parameter combinations have overestimated the impacts of SWH on the potential increase in wage bill and operation cost of enterprises. In addition, the methodology for data collection and analyses is incomprehensive as it has omitted the intrinsic benefits of shorter working hours to employees. Notably, employees would achieve better work-life balance and reduce potential health, family and social problems if they can spend more time with families and friends as well as pursue further education and skills upgrading. In return, this would boost staff productivity and morale, thus benefitting employers and strengthen the overall competitiveness of Hong Kong's workforce. Concern is also raised as to whether, by highlighting the potential impacts of SWH on enterprises and the overall economy in the consultation document, SWHC is in favour of option (d) (i.e. not to implement the "big frame" nor "small frame" but recommend implementing other policies/ measures pertaining to working hours). To enable the community to have an objective and informed discussion on the working hours issue, these members consider that the Administration should also conduct data analyses and assessments on the positive impacts of shorter working hours on employees, enterprises and the overall economy, for example, savings in healthcare expenses and increase in productivity of employees.

16. The Administration has advised that while upholding an evidence-based approach in the deliberation of the working hours policy directions, SWHC would also consider qualitative analysis of relevant information on working hours. In deliberating the subject of working hours policy direction, SWHC has examined a range of factors relating to working hours policy including social factors such as employees' health, quality of life and family life as well as labour relations and social harmony.

17. Some members have expressed support for exploring the "small frame" on the premise of the "big frame". They have pointed out that as revealed from the statistics of the working hours survey conducted by

SWHC in 2014, of all employees, about 60% did not have the modes of overtime compensation specified in their employment contracts/agreements. Given the controversy of the subject of SWH, they consider that the working hours issue should more appropriately be first addressed by requiring employers and employees to enter into written employment contracts with clear terms relating to working hours and overtime pay rates. In these members' view, the Administration should fully address the concerns of the employers and deliberate relevant issues thoroughly before taking forward the matter.

18. Some other members, however, have expressed the view that they would only support SWHC to explore implementing the "small frame" on the premise of introducing a SWH regime. They also consider it unnecessary for SWHC to conduct the second-stage consultation, as members of labour unions and trade associations have been fully consulted on the subject during the first-stage consultation conducted in 2014. In view of this, SWHC should focus its discussion on how to legislate for SWH.

19. According to the Administration, SWHC considers that the above four directions should be able to address the aspirations and concerns of all stakeholders (including employees, employers, labour unions, trade associations and the public).

#### Way forward for the working hours issue

20. Some members have expressed grave concern that the six employee representatives of the Labour Advisory Board ("LAB"), who are SWHC's ex-officio members, have walked out of the SWHC meeting on 27 November 2015. These members share the concern of these employee representatives that the adoption of the "big frame" approach by SWHC has backtracked on the agreement to conduct future discussion on the basis of legislating for working hours of employees as made at the SWHC meeting on 18 March 2015. Members have enquired about how the Administration would take forward the subject of formulating a working hours policy in the absence of the employee representatives on SWHC.

21. The Administration has pointed out that it and the Chairperson of SWHC have been appealing to the six employee representatives of LAB to participate in the work of SWHC again. According to the Administration, the second-stage consultation will be the final round of SWHC's consultation. SWHC has engaged an independent consultant to collate, consolidate and analyse all the views received during the second-stage consultation for SWHC's consideration. SWHC would fully consider the views collected during the second-stage consultation in preparing the report

for submission to the Government. As SWHC will need more time to complete its remaining work, the Government has extended the term of SWHC to 30 November 2016. The Administration has stressed that in accordance with its terms of reference, SWHC would report to CE and advise on the working hours situation in Hong Kong, including whether a statutory SWH regime or any other alternatives should be considered, upon completion of its term. The Government will thoroughly and holistically consider the recommendations to be made by SWHC in its report.

22. Expressing strong disappointment at the Administration's lack of stance on legislating for SWH, some members take a strong view that it is incumbent upon CE to honour his election pledge to establish a SWH regime in Hong Kong. Members have enquired how the Administration would take forward the subject upon receipt of the report from SWHC. Most members have expressed grave concern that there would be insufficient time left for implementation by the current term Government, and there is no guarantee that the Government of the next term would continue with the work concerned. Consideration should therefore be given to introducing the relevant legislation of SWH into LegCo at the beginning of the Sixth LegCo so as to ensure that the issue would be followed up by the next term Government.

23. Members are assured that the Administration is mindful of the complexity of the working hours regime which involves a wide range of complex issues with widespread and far-reaching implications, and fully recognizes the need to examine the subject of SWH in-depth before deciding on the way forward. It has stressed that should a consensus on establishing a statutory SWH regime be reached in the community, the Administration will proceed with the necessary legislative work within the tenure of the current Government.

## **Recommendations**

24. The Subcommittee urges the Administration to take into account the views and concerns expressed by members on all relevant issues raised by the Subcommittee. Some members of the Subcommittee also urges the Administration to:

- (a) make public all the views collected during the second stage public consultation exercise and the analysis of the independent consultant commissioned by SWHC; and
- (b) formulate a concrete working hours policy direction within the current term Government.

25. Of the above recommendations, some members have reservations on item (b).

26. The Subcommittee recommends that the Panel should consider to follow up the above issues with the Administration in the next term of the LegCo.

**Advice sought**

27. Members are invited to note the deliberations and support the recommendations of the Subcommittee.

Council Business Division 2  
Legislative Council Secretariat  
6 June 2016



**Panel on Manpower**

**Subcommittee to Study Issues Relating  
to Standard Working Hours**

Terms of reference

To study and follow up the policy on standard working hours and related issues, and to make recommendations where necessary.

**Panel on Manpower**

**Subcommittee to Study Issues Relating  
to Standard Working Hours**

**Chairman** Hon POON Siu-ping, BBS, MH

**Deputy Chairman** Hon CHAN Yuen-han, SBS, JP

**Members** Hon LEE Cheuk-yan  
Hon LEUNG Yiu-chung  
Hon Tommy CHEUNG Yu-yan, GBS, JP  
Hon CHAN Kin-por, BBS, JP  
Dr Hon LEUNG Ka-lau  
Hon CHEUNG Kwok-che  
Hon IP Kwok-him, GBS, JP  
Hon LEUNG Kwok-hung  
Hon LEUNG Che-cheung, BBS, MH, JP  
Dr Hon KWOK Ka-ki  
Hon KWOK Wai-keung  
Hon SIN Chung-kai, SBS, JP  
Hon TANG Ka-piu, JP  
Dr Hon CHIANG Lai-wan, JP  
Hon CHUNG Kwok-pan

(Total : 17 members)

**Clerk** Miss Betty MA

**Legal adviser** Miss Joyce CHAN

**Date** 13 January 2016

**Panel on Manpower**

**Subcommittee to Study Issues Relating  
to Standard Working Hours**

List of organisations/individuals which/who have given oral representation to the  
Subcommittee

1. PathFinders
2. Mr Joseph CHAN, Member of Central and Western District Council
3. 天水圍勞工權益關注組
4. 天主教勞工中心(九龍)保安護衛關注組
5. 天主教勞工中心(九龍)單幢大廈保安關注組
6. 天主教勞工中心(九龍)單幢大廈保安關注標準工時關注組
7. 天主教勞工中心(九龍)單幢大廈保安護衛關注標準工時關注組
8. 天主教標準工時關注組
9. Miss WONG Hiu-kwan
10. Democratic Alliance for the Betterment and Progress of Hong Kong
11. 民主議政
12. The Democratic Party
13. 民間爭取標準工時聯盟
14. Liberal Party

15. Take a break or break a take
16. 前線員工權益關注組
17. Federation of Hong Kong Industries
18. Hong Kong Catholic Commission for Labour Affairs
19. Hong Kong Federation of Asian Domestic Workers Unions
20. Hong Kong Taxi Owners' Association Ltd.
21. Hong Kong Container Tractor Owner Association Ltd.
22. Hong Kong Catering Industry Association
23. Business and Professionals Alliance for Hong Kong Committee on Youth
24. The Parade Trade Union
25. Employers' Federation of Hong Kong
26. Hong Kong Chef Union
27. Union of Hong Kong Dockers
28. 香港碼頭業職工會機手關注組
29. Hong Kong Federation of Restaurants & Related Trades
30. Hong Kong Confederation of Trade Unions
31. 香港醫院僱員權益工會
32. Laugh Me Die Working Hour Concern Group
33. Association of Restaurant Managers

34. Miss HUI Hiu-tung
35. The Federation of Hong Kong & Kowloon Labour Unions
36. Neighbourhood and Worker's Service Centre
37. Catering and Hotels Industries Employees General Union
38. Mr WAN Pak-kin
39. Lok Ma Chau China-Hong Kong Freight Association
40. 葵芳工友組
41. Kwai Chung Estate Labour Rights Concern Group
42. Kwai Chung Standard Working Hours Concern Group
43. 標你有無街坊會
44. Institution of Dining Art
45. Mr TANG Ka-fat
46. Mr NGAN Lit-chau
47. Concerning CSSA & Low Income Alliance

List of organisations/individual which/who have provided written views to the Subcommittee

1. 自由香港人民代表大會
2. Monday Liberation Frontier
3. The Chinese General Chamber of Commerce
4. Hong Kong Communist Party S.A.

5. Hong Kong Logistics Association
6. Hong Kong Union of Salon Sampans Workers e.V.
7. Hong Kong Professional Teachers' Union
8. Hong Kong Cargo - Vessel Traders' Association Ltd.
9. Hong Kong & Kowloon Motor Boats & Tug Boats Association Ltd.
10. WONG Kai-yeung