

For information on
17 January 2008

Legislative Council Panel on Manpower

Report on the result of the Census and Statistics Department's survey on "Benefits of employees under the Employment Ordinance"

Purpose

This paper briefs Members on the result of a survey on "Benefits of employees under the Employment Ordinance" conducted by the Census and Statistics Department (C&SD) in the first quarter (Q1) of 2006. Representative(s) of the C&SD will take Members through the major survey findings at the meeting of the Panel on Manpower on 17 January 2008.

Background

2. All employees covered by the Employment Ordinance (Cap. 57) (EO), irrespective of their hours of work, are entitled to rights and benefits such as payment of wages, restriction on deductions from wages, granting of statutory holidays, protection against anti-union discrimination, employment protection in respect of unreasonable and unlawful dismissal, etc.

3. Employees engaged under a continuous contract are further entitled to other employment benefits under the EO such as rest days, paid statutory holidays and annual leave, sickness allowance, severance payment and long service payment, etc, subject to their fulfilling the respective qualifying requirements as specified in the EO. An employee engaged under a continuous contract is defined as one who has been employed under a contract of employment by the same employer for four weeks or more and has worked for 18 hours or more in each week (i.e. fulfilling the so-called "4-18" requirement). The aim of a "continuous contract" is to accord those employees who have regular employment relationship with their employers legitimate entitlements to additional benefits which are not otherwise available to employees in casual or transient employment.

4. In recent years, there have been concerns over the growing number of employees who are not engaged under a continuous contract and hence are not eligible for the benefits which are available to “4-18” employees. In the third quarter (Q3) of 2001, the C&SD conducted a special topic enquiry via the General Household Survey to gather information on those employees who were not working under a continuous contract. In order to obtain updated information on the subject, the Labour Department commissioned the C&SD to conduct another survey in Q1 of 2006 also as a special topic enquiry via the General Household Survey. This information paper presents the result of the survey conducted in Q1 of 2006.

Result of the survey on “Benefits of employees under the Employment Ordinance” conducted in Q1 2006

5. As in the previous survey, the 2006 survey collected information on employees who were not engaged under a continuous contract at the time of the survey. For the purpose of the survey, “employees” refer to persons aged 15 and over who worked for an employer in the non-government sector for wage, salary, commission, tips or payment in kind, including domestic helpers and paid family workers but excluding outworkers. The result of the survey is summarised in paragraphs 6 to 11 below.

Major findings

6. In Q1 of 2006, it was estimated that some 2 732 700 employees were employed in the non-government sector. Among them, some 2 591 500 employees (94.8%) were employed under a continuous contract while the remaining 141 200 employees (5.2%) were not. These non-“4-18” employees comprised the following:

- (a) 52 400 employees (1.9%) who worked for less than 18 hours per week; and
- (b) 88 800 employees (3.3%) who worked for 18 hours or more in a week but who have been in employment for less than four weeks at the time of the survey.

Characteristics of non-“4-18” employees

7. Those 141 200 non-“4-18” employees showed the following characteristics:

- 53.0% were male;
- 31.8% aged 40-49;
- 55.1% attained secondary or matriculation education;
- 30.1% and 28.5% were engaged in the construction sector and community, social and personal services sector respectively;
- 31.9% worked in elementary occupations; and
- 41.6% were daily-rated and 26.9% were hourly-rated.

Characteristics of non-“4-18” employees who worked for less than 18 hours a week

8. Of the 52 400 non-“4-18” employees who usually worked for less than 18 hours a week, 38 300 (73.0%) did not work longer hours for personal reasons, with 42.0% having to take care of housework or household members (including children, older persons, disabled or sick members) at home, 19.3% in educational pursuit, 6.0% due to health problem or old age and 5.8% having no financial need. In other words, these employees worked under 18 hours a week of their own accord.

9. The 52 400 non-“4-18” employees who usually worked for less than 18 hours a week showed the following characteristics:

- 74.9% were female;
- 33.0% aged 40-49;
- 44.8% attained secondary or matriculation education;
- 53.6% were engaged in the community, social and personal services sector;
- 40.9% worked in elementary occupations; and
- 16.9% were daily-rated and 62.9% were hourly-rated.

10. Of the 88 800 employees who worked for 18 hours or more a week but less than four weeks at the time of the survey, some 45 900 employees (51.7%) expected that they would work continuously for four weeks or more. These employees would attain a continuous contract of employment and become “4-18” employees once they have completed four weeks’ service. The remaining 42 900 employees (48.3%) responded that they did not expect to work continuously for four weeks or more in their present job.

Employment benefits of the employees not employed under a continuous contract

11. Although non-“4-18” employees are not entitled to certain statutory employment benefits under the EO, the survey revealed that some of them were granted such benefits by their employers. Among the 141 200 employees who were not employed under a continuous contract at the time of the survey, 20.2% were granted statutory holiday pay, 21.6% enjoyed paid annual leave, and 3.8% were granted end-of-year payment. As for those 52 400 employees who usually worked for less than 18 hours a week, 8.1% were granted statutory holiday pay, 3.4% enjoyed paid annual leave and 3.4% were granted end-of-year payment. As stated in paragraph 3 above, under the EO, entitlement to paid statutory holidays and paid annual leave are among the benefits afforded to “4-18” employees but not to non-“4-18” employees, while end-of-year payment is a benefit payable either by contractual agreement or at the discretion of the employer.

Comparison with the result of the survey conducted in Q3 of 2001

12. A comparison of the key findings of the survey conducted in Q1 of 2006 with that of the survey conducted in Q3 of 2001 is set out in the Annex.

Way Forward

13. Members of the Labour Advisory Board were informed of the survey result on 10 December 2007. The Administration will conduct a review on the definition of continuous contract under the EO in the light of recent developments in the labour market.

Labour Department
January 2008

**Major findings of the result of the survey on
“Benefits of employees under the Employment Ordinance”
conducted by C&SD in Q3 2001 and Q1 2006**

	Survey conducted in Q3 2001	Survey conducted in Q1 2006	Change in no.
Total no. of employees working in the non-government sector	2 592 200	2 732 700	+140 500
No. of “4-18” employees working in the non-government sector	2 463 500 (95.0%)*	2 591 500 (94.8%)*	+128 000
No. of non-“4-18” employees working in the non-government sector	128 700 (5.0%)*	141 200 (5.2%)*	+12 500
No. of non-“4-18” employees working in the non-government sector with usual working hours less than 18 hours per week at the time of enumeration	28 900 (1.1%)*	52 400 (1.9%)*	+23 500
No. of non-“4-18” employees working in the non-government sector with usual working hours of 18 hours or more per week but who worked for less than four weeks at the time of enumeration	99 800 (3.9%)*	88 800 (3.3%)*	-11 000

* The figure in bracket denotes the percentage of the respective number to the total number of employees working in the non-government sector at the time of enumeration.