

立法會
Legislative Council

LC Paper No. CB(2)1177/12-13(05)

Ref : CB2/PL/MP

Panel on Manpower

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 28 May 2013**

Promoting family-friendly employment practices

Purpose

This paper gives an account of the past discussions by the Panel on Manpower ("the Panel") on the Administration's work in promoting family-friendly employment practices.

Background

2. According to the Administration, it has been promoting harmonious labour relations. Encouraging employers to adopt family-friendly employment practices has been one of the Government's major promotional efforts. Recent key initiatives include setting up a special committee on standard working hours ("SWH") and legislating for provision of paternity leave.

3. With regard to SWH, the Chief Executive ("CE") announced in his 2010-2011 and 2011-2012 Policy Addresses that the Government would embark on a policy study on SWH so as to lay a solid and objective foundation for the public discussion on the issue. The Labour Department ("LD") was assigned the task and released the Report of the Policy Study on Standard Working Hours ("the Report") in late November 2012.

4. On the provision for statutory paternity leave, CE announced in his 2011-2012 Policy Address that the Government would take the lead in promoting child-bearing and family-friendly practices, beginning with a study into the provision of paid paternity leave for civil servants, and conduct a study on legislating for paternity leave. On 28 March 2012, the Government announced that starting from 1 April 2012, all full-time government employees,

including civil servants, non-civil service contract staff and political appointees, who have no less than 40 weeks' continuous service immediately before the expected or actual date of childbirth would be eligible for five working days of paternity leave on full pay on each occasion of childbirth.

Deliberations of the Panel

5. The Panel has not discussed specifically the subject of family-friendly employment practices, but has considered the relevant issues in the context of introduction of SWH and provision of paternity leave.

Introduction of SWH

6. When the Panel was briefed on the findings of the Report at its meeting on 18 December 2012, members were advised that the Administration was taking steps to set up a Special Committee to follow up on the study on SWH, and the preparatory work would be completed within the first quarter of 2013. Most members expressed grave concerns about the timeframe for the Special Committee to complete its study on SWH and urged the Administration to provide the Panel with progress reports on the Special Committee's deliberations and recommendations.

7. The Administration advised that as the subject of SWH was far more complicated and controversial than the introduction of statutory minimum wage, it was imperative that the community should deliberate the far-reaching implications on the social and economic aspects before coming to a view on the important subject. The Administration stressed that the operation of the Special Committee would be highly transparent, and undertook to revert to the Panel from time to time on the progress of the study.

8. Concern was raised as to whether and how the Administration and the Special Committee would work towards reaching a consensus in the community in respect of the meaning of working hours and the need for establishing an SWH regime by legislative means. There was a view that the Special Committee should focus its work on addressing the phenomenon of long working hours by legislative means, instead of studying whether a SWH regime should be established by legislative means.

9. Members were advised that the findings of the policy study on SWH would shed light on the future policy direction and facilitate the Administration in identifying the way forward. The Special Committee would follow up on the study of SWH based on the evidence collected. It would examine issues relating to long working hours and overtime work arrangements. The Special Committee would also organize consultations and launch public awareness and education programme on key issues to be

considered before coming to a view on the subject of SWH.

10. On the concern about the interim measures in place to tackle the problem of long working hours in the six long-working-hours ("LWHS") sectors identified by the Report before the community had reached a consensus on legislating for SWH, the Administration explained that most employees in the six LWHS were lower-skilled workers with lower educational attainment and were engaged in labour-intensive service sectors, and had their overtime work compensated. On the other hand, workers with higher skills such as professionals had shorter contractual working hours, but many of them worked overtime without compensation which considerably prolonged their total working hours.

11. Most members noted with concern that employers expressed stronger reservations towards the introduction of SWH in Hong Kong than the introduction of statutory minimum wage. Apart from the potential increase in the wage bill, employers were particularly concerned about the need and flexibility to maintain adequate manpower to accomplish urgent and important tasks if working hours limits were set. The Administration was requested to introduce appropriate measures to fully address the concerns of the employers and deliberate relevant issues thoroughly before taking forward the matter. Members were assured that the Administration fully recognized the need to examine the subject of SWH in-depth by the Government, employees, employers and the community at large before deciding on the way forward. The Administration was confident that the phenomenon of relatively long working hours in Hong Kong and overtime work arrangements would be areas to be studied by the Special Committee.

12. Following the Administration's announcement of the formation of the Standard Working Hours Committee on 9 April 2013, the SWH Committee held its first meeting on 7 May 2013.

Legislating for paternity leave

13. At its meeting on 25 January 2013, the Panel was briefed by the Administration on the proposal to legislate for the provision of three days' paternity leave paid at four-fifths of the employee's daily wages.

14. Members supported in principle the proposal to legislate for the provision of paternity leave. Some members, however, expressed concern about the disparity between the statutory paternity leave for employees in the private sector and the current entitlements of government employees. These members took the view that the proposed three-day paternity leave period was insufficient for a father to take care of the newborn and the mother, and urged the Administration to consider extending the duration of statutory paternity

leave to five days. Some members also considered that male employees should be entitled to full pay during paternity leave period.

15. The Administration advised that as revealed from LD's survey on paternity leave, the majority of the respondent companies offered one to three days of paternity leave, and the average duration was three days. The Administration pointed out that under the Employment Ordinance (Cap. 57) ("EO"), for an employee who took paid maternity leave or sick leave, the maternity leave pay and sickness allowance was pitched at four-fifths of the average daily wages earned by the employee before the maternity leave or sick leave. For the sake of consistency with the existing labour legislation, the Administration proposed that the paternity leave pay should be aligned with those applicable to maternity leave and sick leave under EO. In addition, the three-day paternity leave paid at the rate of four-fifths of the average daily wages earned by the employee was only the statutory minimum standard.

16. On the mode of taking paternity leave, many members supported the proposal of allowing male employees to take paternity leave (in one go or on at most three discrete days) at any time during the period from the four weeks before the expected date of confinement to 10 weeks after the actual date of the childbirth. Some members, however, expressed concern that the proposed mode of taking paternity leave would affect the employer and employee relationship, if the employee was allowed to take paternity leave at any time if he so wished.

17. The Administration explained that the proposed arrangement merely sought to enable employers to prepare for their employees' taking paternity leave. The male employee who intended to take paternity leave was required to inform his employer of his partner's pregnancy and expected date of confinement in advance so that the employer could have sufficient time to make necessary staffing deployment.

18. According to the Administration, it would proceed with the drafting work and aimed to introduce a bill into the Legislative Council ("LegCo") at the beginning of the 2013-2014 legislative session.

Alignment of statutory holidays with general holidays

19. Members strongly called for the alignment of the statutory holidays with the general holidays with a view to standardizing the leave entitlement of all employees and further promoting family-friendly employment practices. When briefing members at the Panel meeting on 25 January 2013 on the policy initiatives pertaining to labour and manpower in the 2013 Policy Address, the Administration advised that LD had commissioned the Census and Statistics Department to collect statistics on characteristics of employees taking statutory holidays and general holidays in Hong Kong. The Administration would

revert to the Panel in due course after the Labour Advisory Board deliberated on the subject.

Relevant papers

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

Council Business Division 2
Legislative Council Secretariat
21 May 2013

Appendix

Relevant papers on promoting family-friendly employment practices

Meeting	Date of meeting	Paper
Panel on Manpower	18.12.2012 (Item III)	Agenda Minutes
	25.1.2013 (Item V and VI)	Agenda Minutes

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