For discussion on
18 December 2012

Legislative Council Panel on Manpower

Policy Study on Standard Working Hours

Purpose

This paper briefs Members on the findings of the policy study on standard working hours (SWH) and reports on the way forward.

Background

2. Acknowledging the different concerns in the community over the working hours situation in Hong Kong, the former Chief Executive announced in his 2010-11 and 2011-12 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 completed the study in June 2012 (copy at **Enclosure 1**).

Study Findings

3. The policy study was undertaken on three fronts. First, LD studied the systems and experience of other places in regulating working hours. Second, the Census and Statistics Department (C&SD) collected statistics on the latest working hours situation of employees in various sectors of Hong Kong. Third, the Economic Analysis and Business Facilitation Unit (EABFU) of the Financial Secretary's Office analysed the data collected to assess the possible impact of introducing SWH in Hong Kong. The report discusses the subject in comprehensive and objective manners and identifies the key issues that need to be examined in depth by the Government, employees, employers and the community at large before deciding on the way forward.

Experience in Other Places

4. Working hours regulation has a long history which could be traced back to the industrial revolution in the 18th to 19th century. While many countries have introduced some form of statutory working hours limits, their working hours regimes vary greatly in the essential components, such as working hours

limit, overtime limit, overtime pay, exemptions, flexibility arrangements and rest period.

5. In conducting the study, LD examined the working hours regimes of 12 selected places in view of their relative similarities to Hong Kong in the level of economic development, or social and cultural background[1]. In the process, some issues crucial to the design and implementation of a working hours regime have been identified, namely –

(a) **Definition of "working hours" :** Among the 12 economies studied, six have defined "working hours", which generally comprises the element of "the time during which the employee is at the disposal of the employer". Eight legislated for daily rest breaks to be taken during the working day, but most do not stipulate rest breaks or meal breaks as working hours. In the EU, "on-call" time would amount to working time when an employee is required to be at his place of work during that "on-call" time.

(b) **Objectives of working hours policy :** Working hours policy may serve different policy objectives, including: (i) occupational safety and health (e.g. the EU and Japan); (ii) job creation and sharing (e.g. Korea); (iii) better work-life balance (e.g. Australia); and (iv) fair compensation for overtime (e.g. the US). The adoption of different objectives will eventually lead to very different regime designs.

(c) **"Standard working hours" vs "maximum working hours" :** For those regimes which adopt standard daily limits, the 8-hour day is most common (e.g. Singapore, Korea, Japan, the Mainland, Macao, Taiwan and Canada). In terms of weekly limits, while a 40-hour week is prevalent (e.g. Korea, Japan, the Mainland, Canada and the US), the number of such weekly limits could also vary significantly from 38 hours (e.g. Australia), 44 hours (e.g. Singapore) to 48 hours (e.g. Macao). To prevent excessive working hours, the EU adopts a maximum weekly limit of 48 hours. Many other regimes introduce a cap on weekly overtime hours (e.g. 12 hours in Korea) and/or monthly overtime hours (e.g. 36 hours on the Mainland, 45 hours in Japan, 46 hours in Taiwan and 72 hours in Singapore).

---

[1] These places include Singapore, the Republic of Korea (Korea), Japan, the Mainland, Macao, Taiwan, Australia, the European Union (the EU) (the EU as a whole, with particular reference to the United Kingdom (the UK) and Belgium), the United States (the US) and Canada.

The standard hours limits together with overtime limits constitute the absolute maximum working hours limits of these economies.

(d) **Exemptions :** Exemptions from working hours limits are found in all the 12 economies under study, and are vital for the effective provision of essential public or emergency service, certain occupations or industries, etc. Certain jobs or occupations such as "managerial, supervisory or professional work", government employees, domestic workers, surveillance or intermittent work, etc. are commonly exempted from the working hours regimes of the economies covered by the study. In fact, the most common form of exemption is "by occupation or job responsibility".

(e) **Flexibility arrangements :** Flexibility arrangements are devised to allow for variations in daily and weekly hours of work. Some regimes adopt a simple reference period across the board to allow working hours to be averaged over a certain period of time (e.g. Singapore). Some regimes have designed various working hours systems to cater for the specific needs of certain industries or occupations (e.g. Korea). In some regimes, employees are even allowed to opt-out generally from the working hours limit so that they can work longer hours if they so wish (e.g. the UK).

The experience in other places covered by the study shows that the implementation of SWH carries significant implications on the labour market and economy, in particular on small and medium enterprises (SMEs). The wide variations among different regimes underline the fact that while their experience provides a useful reference in the discussion of Hong Kong's working hours policy, the best way forward for Hong Kong must be decided with full regard to our unique social and economic circumstances. However, as exemptions from working hours limits are found in the 12 economies studied; therefore, in establishing SWH regime, thorough discussion among different stakeholders is essential for achieving consensus on the scope of exemptions required.

<u>Working Hours Situation and Impact Assessments on Labour Cost and Employee's Income</u>

6. Based on a technical combination of the datasets of the General Household Survey and the Annual Earnings and Hours Survey conducted by

C&SD, the average and median weekly total working hours for all employees in Hong Kong in 2011[2] were estimated at 47.0 and 46.6 hours respectively whilst those for full-time employees were slightly longer, at 49.0 and 48.0 respectively. Most employees worked more than 40 hours a week, and nearly a quarter had to perform overtime work. Among them, about half had their overtime work compensated. It is important to note that "hours" in this context comprises contractual hours which include meal breaks if regarded as such according to the employment contract or agreement with the employer (and vice versa), paid overtime, overtime compensated by time-off in lieu, as well as uncompensated overtime.

7. The study finds that lower-skilled, less-educated workers in higher age groups in the labour-intensive service sectors tend to have longer contractual hours, but their overtime work is often paid. On the other hand, higher-skilled workers in general have shorter contractual hours, but many work uncompensated overtime and thus their total working hours are considerably prolonged. The study identifies six long-working-hours sectors with a much higher proportion of employees having long working hours, i.e. average estimated weekly working hours at 54.6 hours for full-time employees of the six long-working-hours sectors, which is longer than the median weekly total working hours for all employees in Hong Kong (i.e. 46.6 hours) (as mentioned in paragraph 6 above). These six long-working-hours sectors are: retail; estate management and security; restaurants; land transport; elderly homes; as well as laundry and dry cleaning services.

8. The possible reasons behind the phenomenon of relatively long working hours in Hong Kong have been explored from a macroeconomic perspective. It is suggested that long working hours of employees in Hong Kong are not only related to the economy's structural transformation, but also its open and flexible labour market structure. While working long hours may affect employees' health in general and constrain the time that they can spend with their families, such flexibility has the effect of facilitating flexible cyclical adjustments of the labour market in effectively absorbing economic shocks.

9. Since many employees in Hong Kong are already working relatively long hours, a large number of employers can potentially be affected by the imposition of SWH. Employers might hence adopt different strategies to offset higher labour costs, such as restructuring employment (e.g. through reduced working hours, splitting full-time posts, reducing fringe benefits); shifting the increased costs to consumers by raising product/service prices; and/or reducing

---

[2] The statistics were collected from the Annual Earnings and Hours Survey and General Household Survey in May – June 2011 and August – October 2011 respectively.

profit. The actual responses would depend on the design and parameters of the policy, as well as the economic and labour market conditions at the time of and immediately subsequent to implementation, which are currently unknown.

10. EABFU, in collaboration with LD and C&SD, has conducted a static cost impact assessment based on three policy parameters using a broad-brush approach[3], including weekly SWH threshold; statutory minimum overtime pay rate and criteria for exempting employees from the SWH regime. With an SWH threshold of 40 hours per week and without any exemption, the number of affected employees is estimated to be 2 378 900 (excluding government employees and live-in domestic helpers), representing a hefty 91.1% of full-time employees. If the weekly threshold is increased to 44 or 48 hours, 1 858 500 (71.2%) or 1 320 200 (50.6%) employees would be affected respectively. However, if higher-skilled employees[4] are exempted, the numbers in question would be reduced substantially to 957 100 for the threshold of 48 hours, and 1 430 800 for 40 hours, representing 36.7% and 54.8% of full-time employees respectively. Even so, the number of employees involved would still be significant.

11. It is estimated that the additional wage bill to employers, without any exemption, could range from $8.0 billion per annum (1.7% of total wage bill in 2011) if the weekly threshold is 48 hours and overtime rate is 1.0, to $55.2 billion (11.4%) if the weekly threshold is 40 hours and overtime rate is 1.5, depending on the policy parameters adopted[5]. If the weekly threshold is set at 54 hours without any exemption, the estimated cost impact will range from $3.1 billion (for overtime pay rate at 1.0), $5.8 billion (at 1.25) to $8.6 billion (at 1.5). If higher-skilled employees are exempted from the SWH regime, the estimated

---

[3] Given factors such as data limitations and uncertainties of the eventual policy design and parameters of SWH, a relatively simple, "broad-brush" approach has been adopted for the purpose of this study. The assessment is purely static, without taking into account the dynamic responses of different variables. The assumptions adopted, e.g. the cost impact is fully borne by employers without adjustment to the production processes and/or output prices, have limitations as the cost effect would be shifted through adjustment in reality, but under the current dataset in hand and the approach adopted such effect cannot be readily assessed. Similarly, assessments for irregular working hours and employment benefits which could affect working hours patterns are also not available. All these will affect the cost impact estimates, and larger errors of estimation are hence expected.

[4] Higher-skilled employees include managers and administrators; professionals; and associate professionals.

[5] Estimated cost impact on SMEs specifically would range from $2.8 billion (1.4%) to $21.4 billion (10.8%).

cost impact would be significantly reduced[6].

12. The above assessment suggests that the cost impact of SWH implementation can vary significantly even under combinations of only three policy parameters, which to some extent illustrates the complexity of the issue. There will be greater uncertainties when other factors are brought into play. For instance, if employers are allowed to compensate part or all of the overtime hours by time-off or holidays, or allowed to average out working hours over a longer period (say 6 months) in the calculation of weekly working hours, the estimated cost impact would be lower, in particular for sectors with distinct seasonal patterns, such as retail and catering. In gist, the number of affected employees and the increase in the total wage bill could vary significantly, depending on the policy design and employers' response under the prevailing economic and labour market situations[7].

13. An assessment of increase in the employment earnings of affected employees under various scenarios shows that the average increase would range from 3.7% to 13.0% depending on the SWH threshold and statutory minimum overtime pay rate. It must be emphasised that such static assessment assumes no change in overall employment, hourly wage, and working time, which would rarely be the case in reality. As already noted in paragraph 9 above, employers may adopt various strategies to alleviate the higher wage pressure induced by the SWH policy. Hence, the actual impact of SWH implementation on their income is still far from being certain. Given the nuances of policy design, dynamic interaction between employers and employees, and inconclusive effect on business costs and labour incomes, SWH policy certainly warrants serious public deliberation and thorough consideration of its possible social and economic implications in the short and long term.

---

[6] If the weekly threshold is set at 40 hours, without any exemptions, the additional wage bill to employers could range from $17.3 billion (for overtime pay rate at 1.0), $36.1 billion (at 1.25) to $55.2 billion (at 1.5). The corresponding figures when higher-skilled employees are exempted are $1.9 billion (for overtime pay rate at 1.0), $11.1 billion (at 1.25) and $20.5 billion (at 1.5). If the weekly threshold is set at 44 hours, without any exemptions, the additional wage bill to employers could range from $13.0 billion (for overtime pay rate at 1.0), $24.4 billion (at 1.25) to $36.0 billion (at 1.5). The corresponding figures when higher-skilled employees are exempted are $1.6 billion (for overtime pay rate at 1.0), $7.8 billion (at 1.25) and $14.1 billion (at 1.5). If the weekly threshold is set at 48 hours, without any exemptions, the additional wage bill to employers could range from $8.0 billion (for overtime pay rate at 1.0), $14.5 billion (at 1.25) to $21.2 billion (at 1.5). The corresponding figures when higher-skilled employees are exempted are $1.1 billion (for overtime pay rate at 1.0), $5.0 billion (at 1.25) and $9.0 billion (at 1.5).

[7] On the assumption that the weekly threshold be increased to 54 hours, without any exemption, the number of employees to be affected will be about 721 200 and the estimated cost impact will range from $3.1 billion (for overtime pay rate at 1.0), $5.8 billion (at 1.25) to $8.6 billion (at 1.5).

Issues to be Considered

14. The subject of SWH is highly complex and controversial. It involves a myriad of interrelated social and economic issues which are far more complicated than those in deliberating the introduction of statutory minimum wage (SMW). It also impacts on a much wider spectrum of employees. Legislating for SWH would have far-reaching consequences on the society, economy, competitiveness and employment. It will bring substantial changes to the existing labour relations, labour market, work culture and business environment. It is therefore imperative that the community should deliberate these issues thoroughly before coming to a view on this important subject.

15. Before the introduction of SWH in Hong Kong is seriously contemplated, the following important subjects and relevant issues must be discussed thoroughly and objectively, not only among employee and employer groups, but also by the community at large –

(a) **Objectives of working hours policy :** Working hours policy may achieve a number of policy objectives including: (i) occupational safety and health; (ii) job creation and sharing; (iii) work-life balance; and (iv) fair compensation for overtime, etc. The adoption of different objectives will involve different policy considerations and result in different regime designs. Since no single regime will fully meet all the objectives, it is important for the community to reach a consensus on the ultimate objectives of SWH should it be mandated in Hong Kong.

(b) **Labour flexibility and Hong Kong's competitiveness :** Should SWH be contemplated, we need to recognise the essential mitigating role played by the exemptions and flexibility arrangements in other SWH regimes, and consider in a pragmatic manner how they should function in Hong Kong's context. The community needs to give serious thoughts to whether and how the implementation of SWH could impact on Hong Kong's labour flexibility and business environment, and whether this may stifle business development and weaken Hong Kong's competitiveness as a global business centre, and impede the economic adjustment process particularly given the current linked exchange rate regime.

(c) **Possible proliferation of part-timers and casual workers :** As a liberal labour market, Hong Kong has a relatively low proportion of part-timers and casual workers. Experience in other places shows that SWH may eventually bring about fragmentation of work and underemployment, if employees have to involuntarily work fewer hours owing to ensuing adjustments in the labour market structure with an increase in part-time or casual jobs. The community at large including the general public has to assess whether such a development is desirable, and consider how the possible increase of part-timers and casual workers would further affect working hours, employment and business operations.

(d) **Impact on businesses in general and SMEs in particular :** The total compliance cost incurred by compliance with various labour-related legislation on businesses should be considered at the same time when evaluating the overall affordability of employers should an SWH policy be adopted. Since a majority of our enterprises are SMEs which are crucial to our economy, thorough discussion and consultation is required to ascertain how far SMEs in different trades and with different operational needs can cope with statutory working hours requirements, on top of SMW and other statutory labour benefit obligations.

(e) **Modus operandi of different industries :** It is challenging to devise simple SWH measures to adequately cater for the multifarious needs of different industries and sectors as well as jobs and occupations. Should SWH be introduced, the community needs to consider whether the regime should have universal application, or apply only to certain industries and/or occupations with particularly long working hours, etc. Also, we should consider the need for other general flexibility arrangements to be incorporated into the regime and the level of flexibility that is considered appropriate.

(f) **Is legislation the best way forward? :** Long working hours is an issue to be addressed. However, a statutory SWH regime should not be regarded as a panacea for solving all long working hours related problems. We need to consider the most appropriate and effective form of working hours policy that fits Hong Kong's unique socio-economic circumstances on the one hand, and balances the interests of employers and

employees as well as broader social concerns (e.g. work-life balance) on the other. The community needs to reach a consensus as to whether establishing a comprehensive SWH regime by legislative means is in the overall interest of Hong Kong.

Special Committee on SWH

16. The Chief Executive has mentioned in his election manifesto that a Special Committee will be set up to follow up on the study. The Special Committee would comprise Government officials, representatives of labour unions and employers' associations, academics and community leaders. The Secretary for Labour and Welfare is following up the matter with a view to completing the preparatory work of the Special Committee within the first quarter of 2013.

Manpower Resources for the Working Hours Policy

17. Considering the nature and the workload of the Special Committee (elaborated in paragraph 16 above), it is necessary to set up a dedicated team in LD to support the work of the Special Committee. We propose to create one supernumerary post of Chief Labour Officer (CLO) at D1 level for a period of three years from 1 April 2013 to lead the proposed team. The job description of the proposed CLO post and the work of the proposed team are at **Enclosure 2**.

Way Forward

18. As mentioned in paragraph 16 above, we are now taking steps to form the Special Committee. We also plan to submit the proposal in paragraph 17 to the Establishment Subcommittee and the Finance Committee in the first quarter of 2013.

Labour and Welfare Bureau
Labour Department
December 2012

Enclosure 1

Report of the Policy Study on Standard Working Hours

June 2012
Labour Department

Table of Content

Page

Executive Summary 1

Part I – Background

Chapter 1 Introduction 15
- Concerns over Working Hours Situation in Hong Kong 15
- Objective of the Policy Study 17
- Scope of the Policy Study 17
- Way Forward 19

Chapter 2 Regulatory Framework in Hong Kong 20
- Introduction 20
- Regulations on Employment of Children and Young Persons 21
- Occupational Safety and Health 24
- Other Categories of Employees 24
- Comments 27

Part II – Experience in Other Places

Chapter 3 Overview of Global Working Hours Situation 28
- International Labour Conventions on Hours of Work 28
- Global Working Hours Regulations 30
- Comments 33

Chapter 4 Study of Working Hours Regimes in Other Places 35
- Introduction 35
- Working Hours Limit 36
- Overtime Limit and Overtime Pay 37
- Exemptions 38
- Flexibility Arrangements 39
- Rest Period 39
- Comments 41

Chapter 5 Observations on Regime Design 42
- Definition of "Working Hours" 42
- Objectives of Working Hours Policy 47
- "Standard Working Hours" vs "Maximum Working Hours" 51
- Exemptions 54
- Flexibility Arrangements 60

Chapter 6 Implementation Experience in Other Places 68
- A Politicised and Lengthy Process of Consensus Building 68
- Disputes over Key Legal Definitions 75
- Employees Benefits vs Public Service and Business Flexibility 79
- Possible Wage Reduction Resulting from Shorter Working Hours 82
- Enforcement Challenges 84

Chapter 7 Impact on the Labour Market and Working Hours Situation 88
- Implications for Small and Medium Enterprises 88
- Impact on Actual Working Hours 93
- Impact on the Labour Market and General Economy 97
- Relationship between Standard Working Hours and Statutory Minimum Wage 102

Part III – Hong Kong: Economic Implications and Impact Assessment

Chapter 8 Working Hours in Hong Kong: A Macroeconomic Perspective 106
- Macroeconomic Backdrop 106
- Development in the Labour Market and Its Connection with Long Working Hours 109
- Working Hours as a Shock Absorber and Source of Economic Growth 114
- Comments 117

Chapter 9 Overview of the Working Hours Situation in Hong Kong 118
- Components of Working Hours and Available Surveys 118
- Compensated Working Hours 120
- Uncompensated Overtime Hours 127
- Estimated Total Working Hours 129
- Working Hours and Wages 132
- Employees and Sectors with Long Working Hours 133
- Working Hours in Small and Medium Enterprises 135
- Comments 136

Chapter 10 Economic Implications and Impact Assessment 138
- Implications for the Overall Economy and Labour Market 138
- Impact on Businesses: a Broad-brush Cost Impact Assessment 144
- Impact on Employees' Income: Illustrative Examples 149
- Comments 156

Part IV – Issues to be Considered

Chapter 11 Key Issues to be Considered 157
- Introduction 157
- Issues to be Considered 157
- Comments 162

Part V – Way Forward

Chapter 12 The Next Step Forward 164

Appendices

1 Average Usual Weekly Hours Worked on the Main Job by Full-time Employment in Countries of the Organisation for Economic Co-operation and Development, 2000-2010 165

2 Working Hours Regulation in 12 Economies 166

3 Working Hours Statistics – Data Sources, Methodology and Limitations 263

4 Statistical Appendix of Distribution of Working Hours 268

5 Methodology of Cost Impact Assessment 285
6 Statistical Appendix of Cost Impact Assessment 287
7 A List of Questions to be Further Examined in Relation to the Implementation of a Working Hours Regime in Hong Kong 302

Abbreviations 308
Glossary 310
References 316

EXECUTIVE SUMMARY

Introduction

ES.1 Acknowledging the concerns in the community over the working hours situation in Hong Kong, the Government announced in both the 2010-11 and 2011-12 Policy Addresses that subsequent to the enactment of the Minimum Wage Ordinance (Cap. 608), it would embark on a policy study on standard working hours (SWH) to lay the foundation for an informed public discussion on the matter. The Labour Department (LD) was assigned the task and has now completed the policy study. This report aims to provide a solid and objective basis for an informed and in-depth discussion on this important and controversial subject and stimulate exchange of opinions among stakeholders and people from different sectors. The discussion will in the end shed light on the optimal future policy direction, and facilitate the Government in mapping out the way ahead.

ES.2 The policy study was undertaken on three fronts. First, LD studied the systems and experience of other places in regulating working hours (Part II of the Report). Second, the Census and Statistics Department collected statistics on the latest working hours situation of employees in various sectors of Hong Kong. Third, the Economic Analysis and Business Facilitation Unit of the Financial Secretary's Office analysed the data collected to assess the possible impact of introducing SWH in Hong Kong (Part III of the Report). Towards the end of the report (Part IV), we will identify a number of key issues that need to be discussed in depth among employees, employers and the community at large in exploring the way forward.

Regulatory Framework in Hong Kong

ES.3 To allow employees days off for taking rest, the Employment Ordinance (EO) (Cap. 57) has specifically provided for rest days, statutory holidays and paid annual leave. Currently, there is no general statutory provision for standard or maximum working hours, overtime limits or

overtime pay in Hong Kong. Employers and employees are at liberty to negotiate the terms and conditions of employment provided that such terms and conditions meet the relevant requirements set down in the EO and other relevant legislation. An employee whose employment contract provides for overtime pay is protected by the EO against unlawful deduction or defaults. Overtime pay is also included in the calculation of various employee's entitlements. [Paragraph 2.2]

ES.4 While there is no general statutory provision for standard or maximum working hours, there are specific regulations under the EO to regulate the working hours of children (under the age of 15) and young persons (aged 15 or above and below 18) working in industrial undertakings, covering the daily working hours, daily rest break, etc. To protect employees from working prolonged hours without rest, the Government also proactively promotes the importance of providing appropriate rest breaks for employees and published a "Guide on Rest Breaks". Certain types of work or occupations are subject to working hours regulation, either in the form of statutory notice (e.g. security personnel), or through occupation-specific guidelines promulgated by government authorities (e.g. franchised bus captains and green minibus drivers). [Paragraphs 2.3 to 2.19]

Overview of Global Working Hours Situation

ES.5 Working hours regulation could be traced back to the industrial revolution in the 18th-19th century. The first international instrument[1] on working hours was made by the International Labour Organisation (ILO) in 1919 upon its inception. According to the ILO, 101 out of 107 countries surveyed have some form of statutory working hours limits. While 41% of them adopt a 40-hour work week, the rest mostly set their weekly working hours between 40 and 48 hours. In the Asia Pacific region, 48-hour work week is most common (46%), while the majority (67%) of the European Union (the EU) Member States and other developed countries have adopted a 40-hour work week. In Asia Pacific, 31% of countries have not regulated maximum weekly limit and about 31% of the countries mandate a limit of 60 hours or more. As for overtime remuneration, 71% of the countries surveyed provide an

[1] The *Hours of Work (Industry) Convention, 1919 (International Labour Convention No. 1)* limits hours of work for employees in industrial undertakings to 8 hours a day and 48 hours a week.

overtime pay rate of at least 1.25 times of their normal salary rate; about 14% provide for less than 1.25 times and another 14% do not regulate overtime pay at all. [Paragraphs 3.2 to 3.12]

ES.6 While the global working time situation provides a useful reference in formulating Hong Kong's working hours policy, authorities such as the ILO and Organisation for Economic Co-operation and Development (OECD) have cautioned against cross-national comparison of different working hours situation and we must always give due regard to our local social and economic circumstances. [Paragraphs 3.14, 3.19 to 3.20]

Study of Working Hours Regimes in Other Places

ES.7 We have selected 12 places in our study, including: Singapore, Republic of Korea (Korea), Japan, the Mainland, Macao, Taiwan, Australia, the EU (the EU as a whole, with particular reference to the United Kingdom (the UK) and Belgium), the United States (the US) and Canada. Our research reveals that a working hours regime comprises at least five essential components, namely:

(a) **Standard or maximum working hours limit**: Standard hours limit is the number of hours that employees are expected to work on a regular basis (e.g. a day or a week). Many regimes stipulate an overtime pay rate at which work beyond the standard hours should be remunerated. Maximum working hours, on the other hand, protects employees' safety and health by setting the limit beyond which any work should be stopped, regardless of whether additional compensation would be given. [Paragraphs 4.5 to 4.6]

(b) **Overtime limit and overtime pay**: Overtime limits may be set by reference to timeframes of a day, a week, a month, a year, a combination of them and/or any other time period. Overtime hours may be compensated by overtime pay at a premium rate/normal rate, or by time-off/compensatory rest period, or both. [Paragraphs 4.7 to 4.11]

(c) **Exemptions**: Exemptions from working hours limits are common and allowed under different categories, such as: (i) by occupation or job responsibility; (ii) by salary level; (iii) by industry or sector;

(iv) by size or sales volume of company; and (v) other exceptional circumstances. [Paragraph 4.12]

(d) **Flexibility arrangements**: Many regimes allow the statutory hours limit to be averaged over a certain period of time called "reference period" (e.g. two weeks, one month or even longer, etc.), so that employees and employers can schedule working hours flexibly on a daily and weekly basis. Within the reference period, any hours beyond the standard limit in individual days/weeks can be worked without resort to overtime pay, as long as the average working hours do not exceed the statutory limit. Other flexibility measures include tailor-made working hours systems for specific industries or occupations and an "opt-out" arrangement. [Paragraphs 4.13 to 4.14]

(e) **Rest period**: Rest period, which aims to preserve employees' safety and health, usually takes three forms: (i) rest breaks within a working day; (ii) daily rest periods between two consecutive working days; and (iii) a weekly rest day. [Paragraphs 4.15 to 4.18]

Observations on Regime Design

ES.8 We have identified the following five issues that are crucial to the design of any working hours regime, namely:

(a) **Definition of "working hours"**: Among the 12 economies studied, six have defined "working hours", which generally comprises the element of "the time during which the employee is at the disposal of the employer". Eight legislated for daily rest breaks to be taken during the working day but most do not stipulate rest breaks, and for that matter meal breaks, as working hours. In the EU, "on-call" time would amount to working time when an employee is required to be at his place of work during that "on-call" time. [Paragraphs 5.2 to 5.14]

(b) **Objectives of working hours policy**: Working hours policy may serve different policy objectives, including: (i) occupational safety and health (e.g. the EU and Japan); (ii) job creation and sharing

(e.g. Korea); (iii) better work-life balance (e.g. Australia); and (iv) fair compensation for overtime (e.g. the US). The adoption of different objectives will eventually lead to very different regime designs. [Paragraphs 5.15 to 5.27]

(c) **"Standard working hours" vs "maximum working hours"**: For those regimes which adopt standard daily limits, the 8-hour day is most common (e.g. Singapore, Korea, Japan, the Mainland, Macao, Taiwan and Canada). In terms of weekly limits, while a 40-hour week is prevalent (e.g. Korea, Japan, the Mainland, Canada and the US), the number of such weekly limits could also vary significantly from 38 hours (e.g. Australia), 44 hours (e.g. Singapore), to 48 hours (e.g. Macao). To prevent excessive working hours, the EU adopts a maximum weekly limit of 48 hours. Many other regimes introduce a cap on weekly overtime hours (e.g. 12 hours in Korea) and/or monthly overtime hours (e.g. 36 hours on the Mainland, 45 hours in Japan, 46 hours in Taiwan and 72 hours in Singapore). The standard hours limits together with overtime limits constitute the absolute maximum working hours limits of these economies. [Paragraphs 5.28 to 5.34]

(d) **Exemptions**: Exemptions from working hours limits are found in all the regimes studied, and are vital for the effective provision of essential public service, certain occupations or industries, etc. The most common form of exemption is "by occupation or job responsibility". Certain occupations or work nature such as "managerial, supervisory or professional work", government employees, domestic workers, surveillance or intermittent work, etc. are commonly exempted from the working hours regimes of the economies covered by the study. If SWH is to be established in Hong Kong, thorough discussion among different stakeholders is essential for achieving consensus on the scope of exemptions required. [Paragraphs 5.35 to 5.50]

(e) **Flexibility arrangements**: Flexibility arrangements are devised to allow for variations in daily and weekly hours of work. Some regimes adopt a simple reference period across the board to allow working hours to be averaged over a certain period of time (e.g. Singapore). Some regimes have designed various working hours

systems to cater for the specific needs of certain industries or occupations (e.g. Korea). In some regimes, employees are even allowed to opt-out generally from the working hours limit so that they can work longer hours if they so wish (e.g. the UK). [Paragraphs 5.51 to 5.63]

Implementation Experience in Other Places

ES.9 Experience in other places reveals that many important issues would only come to light during the consensus building and implementation stage. They include the following:

(a) **A politicised and lengthy process of consensus building**: Polarised views of different stakeholders over SWH often led to negotiation deadlock which prevented prompt legislation and implementation. For instance, a review of the EU's Working Time Directive which commenced in 2004 is still unfinished as of today. That said, the consensus building process is indispensable for designing a solid framework of working hours policy, without which arguments may persist post-legislation and undermine implementation. [Paragraphs 6.3 to 6.16]

(b) **Disputes over key legal definitions**: Key legal definitions, however well-thought-out, may still be subject to challenge and has to be resolved at court level. The European Court of Justice's rulings on "on-call" time has immensely impacted on the public service sectors involving "on-call" time. In the US, disputes on exemption criteria have resulted in an upsurge in labour lawsuits. Thus certain key concepts under an SWH regime must be carefully studied, without which the implementation will certainly be hindered and fraught with problems. [Paragraphs 6.17 to 6.28]

(c) **Employees benefits vs public service and business flexibility**: Different economies have incorporated different kinds of exemptions and flexibility arrangements into their working hours regimes to cater for their own needs having regard to their individual circumstances. As there is no one-size-fits-all solution to this complex issue, it is important that we take into

account our socio-economic conditions in considering the level and kinds of exemptions and flexibility arrangements to be adopted in the local context should SWH be contemplated. We also cannot ignore the need to provide essential services, the importance of business flexibility (for both big and small businesses) in maintaining our competitive edge and the sentiment as well as rights and benefits of employees. [Paragraphs 6.29 to 6.36]

(d) **Possible wage reduction resulting from shorter working hours**: Faced with the legal requirement to pay overtime premium, employers may no longer require employees to work overtime but instead go for other means such as employing part-time workers, etc. In contemplating working hours policy, careful consideration must therefore be given to the possibility of wage shrinkage, particularly for lower-skilled workers in elementary occupations, as a result of working hours reduction. [Paragraphs 6.37 to 6.43]

(e) **Enforcement challenges**: Non-compliance of SWH mainly relates to non-payment of overtime and violation of overtime limit as well as violation of statutory weekly hours limits. Unlike the Statutory Minimum Wage (SMW) which concerns only low-paid jobs, the coverage of any working hours regime is much wider and affects many more employees. Experience in other places indicates that enforcement is a very challenging task in a working hours regime owing to the gap between the legislative requirements and the highly dynamic workplace operations. Effective enforcement requires a good design of the regime, as well as the allocation of necessary resources to enforcement agencies for carrying out inspection and promotional work. [Paragraphs 6.44 to 6.54]

Impact on the Labour Market and Working Hours Situation

ES.10 Experience in other places shows that the implementation of SWH carries significant implications for the labour market and economy, including:

(a) **Implications for small and medium enterprises (SMEs)**: Implementation of SWH may impact strongly on SMEs' operational flexibility, competitiveness and operating costs. Specifically, SMEs may have to hire additional staff and/or give overtime pay to existing ones to cope with seasonal surge in workload. Additional administrative work may also be generated for complying with various SWH requirements. While measures such as delaying or phasing the application of certain SWH requirements to SMEs (e.g. increased overtime pay rate and reduction of weekly working hours) may tide SMEs over their difficulties, as in the cases of Korea and Japan, they also carry negative impact such as "unequal" treatment for employees of SMEs. Thus the community needs to find the right point of balance. [Paragraphs 7.2 to 7.13]

(b) **Impact on actual working hours**: While SWH is generally perceived as a policy tool to reduce working hours, one must be cautious not to take it as a panacea for all problems arising from long working hours, which are associated with a wide array of factors specific to individual economies, such as macroeconomic environment, labour market, job nature or seasonal market fluctuations, social or even cultural dimensions. [Paragraphs 7.14 to 7.27]

(c) **Impact on the labour market and general economy**: For some economies such as Korea, Japan and Australia, there is an increase in part-time employment following working hours reduction or implementation of SWH. With the proliferation of part-time employment, more workers may have to work for multiple employers or contracts, which begs the question of whether working hours limit should apply on the basis of each worker or each contract. As for the relationship between working hours reduction and productivity growth, there has been considerable

debate over the years. Recent studies suggest that the effect of working hours reduction on productivity is still far from conclusive. [Paragraphs 7.28 to 7.44]

(d) **Relationship between SWH and SMW**: While there are views that the introduction of SMW must lead to legislation for SWH, it is important to bear in mind that SMW and SWH each serves very different policy objectives and it is possible for one to exist without the other. Economically, the cumulative effect of SMW and SWH may significantly weaken the flexibility of businesses to adjust and rebound during hard times. Moreover, the level of SMW rate may affect the effectiveness of a working hours regime. In the case of Hong Kong, it is important to weigh carefully the possible interplay of the two regimes to our economic well-being. [Paragraphs 7.45 to 7.50]

Working Hours in Hong Kong: A Macroeconomic Perspective

ES.11 We explore the possible reasons behind the phenomenon of relatively long working hours in Hong Kong from a macroeconomic perspective. These factors may be structural or cyclical. For example, Hong Kong's structural shift towards a service economy has increased the demand for service-oriented employment, in particular higher-skilled workers in professional services, as well as service and shop sales workers and elementary workers engaged in consumption-related sectors. These groups tend to work longer hours owing to operational needs and for maintaining Hong Kong's competitive edge in the pillar industries. [Paragraphs 8.4 to 8.7 and 8.11 to 8.22]

ES.12 Hong Kong's labour market structure is also open and flexible, as partly reflected by the dominance of full-time employment, in contrast to what is observed in many other developed economies. Such flexibility facilitates cyclical adjustments of the labour market in absorbing economic shocks, with working hours tending to lengthen to sustain output growth amid employment loss during recessions, and vice versa. In the longer term, working hours could play a more prominent role in economic growth in view of the ageing population. [Paragraphs 8.8 to 8.10 and 8.23 to 8.29]

Overview of the Working Hours Situation in Hong Kong

ES.13 The study examines the working hours situation in Hong Kong and analyses the subject in terms of sectoral and occupational distribution, as well as other socio-economic attributes such as gender, age and education. Working hours are also analysed in terms of their nature, namely contractual hours (CH), paid overtime (POT), overtime compensated by time-off in lieu (TOIL), and uncompensated overtime (UCOT). [Paragraphs 9.1 to 9.30]

ES.14 In 2011, the average and median weekly total working hours for all employees were estimated at 47.0 and 46.6 hours respectively. Figures for full-time employees were slightly longer at 49.0 and 48.0 respectively. Most employees worked more than 40 hours a week, and nearly a quarter had overtime work. Among them, about half had their overtime work compensated either by POT or TOIL, while the remaining half had UCOT. [Paragraphs 9.1 to 9.30]

ES.15 Lower-skilled workers in higher age groups with lower educational attainment engaged in labour-intensive service sectors tend to have longer CH and their overtime are often paid. On the other hand, higher-skilled workers engaged in high value-added service sectors had shorter CH, but many of them worked UCOT which considerably prolonged their total working hours. [Paragraphs 9.1 to 9.30]

ES.16 The micro-level analysis identifies long-working-hours sectors (LWHS) with more employees having long working hours in absolute or proportionate terms as compared to the overall economy. Based on this definition, the survey results suggest that six sectors can be identified as LWHS, namely: retail; estate management and security; restaurants; land transport; elderly homes; and laundry and dry cleaning services. [Paragraphs 9.31 to 9.35]

Economic Implications and Impact Assessment

ES.17 The report covers the possible implications of SWH policy to Hong Kong's economy and labour market, and also attempts to assess the potential increase in labour costs to businesses under the policy. In the absence of any experience in implementing working hours policy and a

well defined set of policy parameters, the cost impact assessment of SWH has its constraints and limitations, and can only be undertaken by way of scenario studies based on a broad-brush approach with a set of plausible assumptions.

ES.18 By altering only three policy parameters (i.e. weekly SWH threshold (from 40 to 48 hours), statutory minimum overtime pay rate for working hours beyond the SWH threshold (from 1.0 to 1.5 times), and exemption criteria with regard to employees (e.g. exempting higher-skilled employees from the regime)), a total of 27 scenarios were generated and tested. It was found that the number of affected employees and the increase in total wage bill could vary significantly. For example, under scenarios without any exemption, the number of affected employees would range from 1 320 200 to 2 378 900 (50.6% to 91.1% of full-time employees), and the corresponding estimated increase in total wage bill would be $8.0 billion to $55.2 billion per annum (1.7% to 11.4% of 2011 total wage bill), depending on the policy design and employers' response under the prevailing economic and labour market situations. [Paragraphs 10.21 to 10.31]

ES.19 The complexity of the issue can likewise be illustrated from the employees' perspective by a number of hypothetical examples, which showed an inconclusive outcome of employment earnings after SWH implementation. Given the extent of uncertainties of the potential impact on the economy and the labour market without knowing the details of the policy parameters, an in-depth discussion and further deliberation in the community is warranted so that a more realistic impact assessment can be made when charting the way forward.

Key Issues to be Considered

ES.20 Working hours policy is a highly complex and contentious subject which involves a myriad of interrelated social and economic issues. Given the long-term and widespread implications that it will bring to our labour market and work culture as well as our economy, it is necessary for the community to examine and discuss these issues thoroughly before coming to a view on the matter. We have identified at least six key issues that need to be further discussed in depth, not only among employee and employer groups but also by the community at large

before the way forward is decided.

(a) **Objectives of working hours policy**: Working hours policy may achieve a number of policy objectives including: (i) occupational safety and health; (ii) job creation and sharing; (iii) better work-life balance; and (iv) fair compensation for overtime. The adoption of different objectives will involve different policy considerations and result in different regime designs. Since no single regime will fully meet all the objectives, it is important for the community to reach a consensus on the ultimate objective of SWH should it be mandated in Hong Kong. [Paragraphs 11.3 to 11.4]

(b) **Labour flexibility and Hong Kong's competitiveness**: Should SWH be introduced, we need to recognise the essential mitigating role played by the exemptions and flexibility arrangements in other SWH regimes, and consider in a pragmatic manner how they should function in Hong Kong's context. The community needs to give serious thoughts to whether and how the implementation of SWH, coupled with SMW, could unduly impact on Hong Kong's labour flexibility and business environment, and whether this may stifle business development and weaken Hong Kong's competitiveness as a global business centre, and impede the economic adjustment process particularly given the current linked exchange rate regime. [Paragraphs 11.5 to 11.6]

(c) **Possible proliferation of part-timers and casual workers**: As a liberal labour market, Hong Kong has a distinctively low proportion of part-timers and casual workers. Experience in other places shows that SWH may eventually bring about fragmentation of work and underemployment, if employees have to involuntarily work fewer hours owing to ensuing adjustments in the labour market structure with an increase in part-time or casual jobs. The community has to assess whether such a development is desirable, and consider how the possible increase of part-timers and casual workers would further affect working hours, employment and business operations. [Paragraphs 11.7 to 11.9]

(d) **Impact on businesses in general and SMEs in particular**: The cumulative cost incurred by compliance with various labour-related legislation since the enactment of the EO in 1968 is crudely estimated to be around 6% of the total wage bill in 2011. Although most of the cost entailed should have been absorbed over the years, the total compliance cost on businesses should be considered when evaluating the overall affordability of employers should an SWH policy be adopted. Given the importance of SMEs to our economy, thorough discussion and consultation is required to ascertain how far SMEs in different trades and with different operational needs can cope with statutory working hours requirements, on top of SMW and other statutory labour benefit obligations. [Paragraphs 11.10 to 11.11]

(e) **Modus operandi of different industries**: It is challenging to devise simple SWH measures to adequately cater for the multifarious needs of different industries and sectors as well as jobs and occupations. Should SWH be introduced, the community needs to consider whether the regime should have universal application, or apply only to certain industries and/or occupations with particularly long working hours, etc. Also, we should consider the need for other general flexibility arrangements to be incorporated into the regime and the level of flexibility that is considered appropriate. [Paragraph 11.12]

(f) **Is legislation the best way forward?**: Long working hours is an issue to be addressed. However, a statutory SWH regime should not be regarded as a panacea for solving all long working hours related problems. We need to consider the most appropriate and effective form of working hours policy that fits Hong Kong's unique socio-economic circumstances on the one hand, and balances the interests of employers and employees as well as broader social concerns (e.g. work-life balance) on the other. Eventually, the community needs to reach a consensus as to whether establishing a comprehensive SWH regime by legislative means is in the best interest of Hong Kong. [Paragraph 11.13]

The Next Step Forward

ES.21 A major policy aimed at improving employees' rights and benefits like SWH will affect not only employers and employees, but also the entire community and economy. In seeking to advance labour rights and benefits, the Government must in parallel consider the pace of economic development, other labour protection measures to be introduced and their relative priority, the affordability of the community and the need to strike a sensible balance between the interests of employers and employees. This report is the Government's serious attempt to kick-start a policy discussion on the controversial issue of SWH.

ES.22 Given the far-reaching implications of the SWH policy on the local economy and community, the success of such a policy could only be built upon consensus to be reached among various sectors of the community, particularly between employers and employees. Indeed, experience in other places also indicates that consensus building for SWH is a lengthy process owing to its complex and technical nature, as well as the controversies involved. Therefore, it is essential that the public is fully aware of the issues involved and their implications. This report should provide a sound and solid basis for further discussion among the stakeholders and the general public.

CHAPTER 1

INTRODUCTION

Concerns over Working Hours Situation in Hong Kong

1.1 Hong Kong is renowned for having a hardworking and flexible workforce which underpins its economic development and success in face of intense global competition. In recent years, there are increasing public concerns over the impact of long working hours[2] on employees' health and how work-life balance can be enhanced. There are also calls from Legislative Council Members and trade unions to introduce working hours legislation.

1.2 Those in support of regulating working hours believe that this would enhance employees' safety and health by curbing unduly long working hours. With shorter working hours, employees can spend more time with families and friends. This would help employees achieve better work-life balance and reduce potential health, family and social problems. In return, this would boost staff productivity and morale, thus benefitting employers. Employees would also find more time for further education and skills upgrading, thereby strengthening the overall competitiveness of Hong Kong's workforce. Supporters also consider it fair for employees to be properly compensated for working extra hours beyond the agreed level stipulated in the employment contract. Besides, employees would have more time for entertainment and consumption and this would help boost the business of the retail, catering and service sectors.

1.3 On the other hand, there are those who object to the introduction of statutory standard working hours (SWH). They believe that mandatory SWH would affect workers of all skill and seniority levels and its introduction could be detrimental to the operational flexibility of

[2] The average weekly total working hours for Hong Kong employees in 2011 were estimated at 47.0 hours, with the median at 46.6 hours. For full-time employees, the corresponding figures were at 49.0 and 48.0 hours respectively. Please refer to Chapter 9 for details including those on the sectors with relatively long working hours.

businesses which has long been a key competitive edge of Hong Kong. In some sectors, employees must be allowed to work flexibly to meet operational needs. The implementation of a rigid working hours regime would bring great difficulties to these sectors by hampering their operational flexibility and may even force some companies to go out of business. This is particularly so as 98% of the companies in Hong Kong are small and medium enterprises (SMEs)[3]. Being a small and open economy with a linked exchange rate system, there are concerns that the introduction of SWH in Hong Kong shortly after the implementation of statutory minimum wage (SMW) would result in a heavy financial and administrative burden on businesses. This would also reduce labour market flexibility in terms of wage and working hours adjustments, which would undermine the competitiveness and business environment of Hong Kong, especially at times of an economic downturn.

1.4 Acknowledging the concerns in the community over the working hours situation in Hong Kong, the Government announced in both the 2010-11 and 2011-12 Policy Addresses that subsequent to the enactment of the Minimum Wage Ordinance (Cap. 608) (MWO), it would embark on a policy study on SWH to lay the foundation for an informed public discussion on the matter. The Labour Department (LD) was assigned the task and has now completed the policy study.

1.5 The subject of SWH is highly complex and controversial. As SWH can apply to all workers regardless of skill and seniority levels, its implementation carries far-reaching economic and social implications for Hong Kong. The Government therefore needs to be extremely prudent in handling the matter. As with any labour policy initiatives, in examining the issue of SWH, it is of utmost importance that we should take into account the overall interest of Hong Kong, the pace and sustainability of economic development, the affordability of the community as a whole and how a balance can be struck between employers' and employees' interests. To this end, we consider that consensus building among employers, employees and the community at large is imperative in exploring the way forward.

[3] An SME is a manufacturing business which employs fewer than 100 persons in Hong Kong; or a non-manufacturing business which employs fewer than 50 persons in Hong Kong. See Trade and Industry Department's website: http://www.success.tid.gov.hk/english/lin_sup_org/gov_dep/service_detail_6863.html

Objective of the Policy Study

1.6 Through a detailed examination of the issue of SWH, the policy study aims to lay a solid and objective basis for an informed and in-depth discussion on this important and controversial subject, thereby facilitating the Government in mapping out the way ahead. The study takes an international perspective, but also gives regard to the local situation. We adopt a pragmatic approach by analysing the relevant information and statistics, drawing reference from experience in other places and making observations with reference to the actual social and economic conditions of Hong Kong.

1.7 Experience in other places indicates that consensus building for SWH measures is usually a lengthy and politicised process. The community should also be fully aware of the fundamental issues and significant socio-economic implications involved before taking a view on the matter.

1.8 As the first concerted effort by the Government to conduct a thorough study on SWH, this policy study does not seek to come to a definitive view at this stage as to whether SWH should be implemented; nor does it recommend a legislative approach. Instead, we aim to provide a solid foundation for further public discussion and stimulate exchange of opinions among stakeholders of different sectors. The discussion will in the end shed light on the optimal future policy direction.

Scope of the Policy Study

1.9 The policy study was undertaken on three fronts. First, the LD studied the systems and experience of other places in regulating working hours. Second, the Census and Statistics Department (C&SD) collected statistics on the latest working hours situation of employees in various sectors of Hong Kong. Third, the Economic Analysis and Business Facilitation Unit of the Financial Secretary's Office analysed the data collected to assess the possible impact of introducing SWH in Hong Kong.

1.10 The study findings comprise three major parts, namely: review of experience in other places (Part II of the Report), analysis of Hong

Kong's situation (Part III), and the issues to be further considered (Part IV). Every effort is made to conduct a comprehensive study on the issue of SWH. However, given the highly complex nature of the subject, the study represents the Government's first proactive exploration of the subject and is by no means an exhaustive evaluation of every fine detail of a working hours policy.

Experience in Other Places

1.11 In this part of the study, we conducted comprehensive research into the experience of 12 selected economies, namely: Singapore, Republic of Korea (Korea), Japan, the Mainland, Macao, Taiwan, Australia, the European Union (the EU) (the EU as a whole, with particular reference to the United Kingdom (the UK) and Belgium), the United States (the US) and Canada. We also drew reference from studies on SWH conducted by international organisations.

1.12 We begin with an overview of the global working hours situation. We then summarise the features of working hours regimes covered in the study. That is followed by a discussion on various important considerations that need to be taken into account in contemplating whether a statutory working hours regime should be set up in Hong Kong.

Economic Implications and Impact Assessment of Implementing Standard Working Hours in Hong Kong

1.13 The second part of the study assesses the possible socio-economic impact of introducing a mandatory SWH regime in Hong Kong. We first analyse long working hours from a macroeconomic perspective. We then provide an overview of the detailed working hours distribution in Hong Kong and identify those sectors and occupational groups experiencing longer working hours.

1.14 To gauge the potential impact of SWH implementation, we conducted a cost impact assessment for employers and an impact assessment on employees' income in the private sector, using a micro-dataset based on the 2011 Annual Earnings and Hours Survey (AEHS) and the General

Household Survey (GHS)[4]. The assessment was conducted on the basis of three policy parameters, namely: (a) weekly SWH threshold; (b) statutory minimum overtime pay rate; and (c) exemption criteria with regard to employees. By examining three variables in each parameter, a total of 27 base scenarios have been examined. Three major findings (with a detailed sectoral analysis) will be presented, including: (a) the estimated number of affected employees; (b) the corresponding compliance costs to employers in terms of increase in total wage bill; and (c) the estimated increase in wages of the affected employees. Key observations and useful comparisons among scenarios are then made.

Issues to be Considered

1.15 Towards the end of the report, we identify a number of key issues that need to be discussed in depth, not only among employees and employers, but also by the community at large before deciding on the way forward.

Way Forward

1.16 For a major policy issue like SWH, we must dispassionately and comprehensively consider the arguments for and against. This report is the Government's best effort to kick-start an in-depth public policy discussion on this highly complex and important issue. The outcome of the discussion will provide an essential basis for further consideration by the Government on the best way forward.

[4] Please refer to Chapter 10 and **Appendix 5** for details.

CHAPTER 2

REGULATORY FRAMEWORK IN HONG KONG

Introduction

2.1 In Hong Kong, the Employment Ordinance (Cap. 57) (EO) is the main piece of legislation governing conditions of employment. It covers a comprehensive range of employment protection and benefits for employees[5]. To allow employees days off for taking rest, the EO has specifically provided for rest days[6], statutory holidays[7] and paid annual leave[8]. LD is responsible for enforcing the EO and has been taking rigorous enforcement actions to safeguard the rights and benefits of employees[9].

2.2 Currently, there is no general statutory provision stipulating standard or maximum working hours, overtime limits or overtime pay. Employers and employees are at liberty to negotiate the terms and conditions of employment, including the hours of work and compensation arrangements for overtime work, provided that such terms and conditions meet the relevant requirements set down in the EO and other

---

5 The employment protection and benefits covered by the EO include: wage protection, maternity protection, protection against anti-union discrimination, rest days, holidays with pay, paid annual leave, sickness allowance, severance payment and long service payment, etc.

6 Under the EO, an employee employed under a continuous contract is entitled to not less than one rest day every seven days. No employer shall require an employee to work on any of his rest days unless in cases of machinery breakdown or an unforeseen emergency. For any rest day on which the employee is required to work, the employer shall substitute some other rest day within 30 days after the original rest day.

7 An employee, irrespective of his length of service, is entitled to 12 days of statutory holidays. An employee having been employed under a continuous contract for not less than three months immediately preceding a statutory holiday is entitled to holiday pay. If the employer requires the employee to work on a statutory holiday, the employer should make alternative holiday arrangement and give prior notice to the employee on the date of alternative holiday.

8 An employee is entitled to annual leave with pay after having been employed under a continuous contract for every 12 months. An employee's entitlement to paid annual leave increases progressively from 7 to a maximum of 14 days according to his length of service.

9 The EO provides that where an employer without reasonable excuse fails to grant an employee rest days, statutory holidays or paid annual leave, he is liable to prosecution and, upon conviction, to a maximum fine of $50,000.

relevant legislation. Although employers are not obligated by the EO to give overtime pay, an employee whose employment contract provides for overtime pay is protected by the EO against unlawful deduction or defaults, in that overtime pay is also regarded as wages[10]. Under the EO, overtime pay should also be included in calculating various employee's entitlements[11]. Likewise, overtime work which falls under "hours worked" as stated in the MWO, or is regarded as hours worked by the employee according to his employment contract or agreement with the employer, is entitled to the calculation of minimum wage. In this respect, overtime pay is also regulated under the MWO.

Regulations on Employment of Children and Young Persons

2.3 While at present there is no legislation regulating the working hours of all employees in general, there are specific regulations under the EO to regulate the working hours of children (under the age of 15) and young persons (aged 15 or above and below 18) working in industrial undertakings including:

(a) the Employment of Children Regulations (ECR); and

(b) the Employment of Young Persons (Industry) Regulations (EYP(I)R).

Employment of Children Regulations

2.4 The ECR prohibit the employment of children[12] in industrial undertakings and regulate the employment of children in non-industrial establishments. Under the ECR, a child who has attained the age of 13

[10] The EO stipulates that wages (including overtime pay) should be paid not later than seven days after the end of the wage period, the day of completion of contract or the day of termination of employment as appropriate. An employer who wilfully and without reasonable excuse fails to pay wages in accordance with the EO commits an offence and is liable to prosecution. The maximum penalty for wage offences is a fine of $350,000 and imprisonment for three years.

[11] These entitlements include: end of year payment, maternity leave pay, severance payment, long service payment, sickness allowance, holiday pay, annual leave pay and wages in lieu of notice. Overtime pay should be included in calculating these entitlements if: (a) it is of a constant character; or (b) its monthly average over the past 12 months is not less than 20% of the average monthly wages of the employee during the same period.

[12] No person shall employ a child or cause or permit a child to be employed in any industrial undertaking. Children aged under 13 are further prohibited from taking up employment in all economic sectors. A child who works in any place of employment, whether for wages or not, shall be deemed to be employed for the purposes of the ECR. The ECR do not apply in relation to children who are registered apprentices under the Apprenticeship Ordinance (Cap. 47).

but under 15 years and has completed Secondary Three may, subject to certain restrictions, be employed in an non-industrial establishment. The child, however, must not be employed: (a) before 7:00 a.m. or after 7:00 p.m.; (b) for more than 8 hours on any day; and (c) to work continuously for more than 5 hours without a break of not less than 1 hour for meal or rest.

2.5 In addition to the above conditions, the ECR impose further restrictions on the employment of a child who has attained the age of 13 years but has not completed Secondary Three. Among others, the child must not be employed: (a) during school hours on any school day; (b) during the school term for more than 2 hours on any school day, or 4 hours on any other day; and (c) during the summer holidays for more than 8 hours on any day.

2.6 An employer in the entertainment, advertising or related field may, owing to the genuine need of the industry, employ child entertainers[13] of different ages in his productions. The concerned employer should apply to the Commissioner for Labour in writing for granting exemptions from the ECR before commencing employment. Notwithstanding the working conditions mentioned in the above two paragraphs, a child entertainer must not be employed: (a) before 7:00 a.m. or after 11:00 p.m.; (b) for working more than 4 hours on a school day during the school term; (c) for a period of employment more than 8 hours on any day; (d) for more than 4 days in a week and during school term for more than 3 days from Monday to Saturday; (e) during the 12 hours immediately following the ending of his work on any day; and (f) in the case of a child under the age of 6, without an additional rest period of not less than half an hour within the 5-hour limit mentioned in paragraph 2.4; and (g) free transport should be provided to take each child employee home if the child is required to work after 7:00 p.m.

[13] Child entertainers are broadly classified as: (a) extras - ad hoc employment in a particular programme or production; and (b) contract artistes/freelancers - employment on a contract covering a certain period of time or on programme basis.

Employment of Young Persons (Industry) Regulations

2.7 The EYP(I)R regulate, among others, the hours of work of young persons[14] (aged 15 or above and below 18) in industrial undertakings. The statutory restrictions on period of employment, working hours and working days[15] are summarised in **Table 2.1**.

Table 2.1: Restrictions of Working Hours of Young Persons under the EYP(I)R

Maximum period of employment in a day	10 hours (between 7:00 a.m. and 7:00 p.m. only)
Maximum working hours a day	8 hours
Maximum working hours a week	48 hours
Maximum working days a week	6 days
Maximum period of continuous work	5 hours followed by an interval of not less than half an hour for a meal or rest

2.8 Under the EYP(I)R, the working hours of a young person, if agreed with his employer, may exceed 8 hours in a day or 48 in a week provided that the total number of hours worked by the young person does not exceed 96 in any two consecutive weeks. However, the maximum period of employment in a day shall remain to be 10 hours. The employer is prohibited from employing any young person to work overtime in an industrial undertaking.

2.9 Any person who contravenes any provisions of the ECR or the EYP(I)R shall be guilty of an offence and is liable to a maximum fine ranging

[14] The EYP(I)R apply to all young persons employed in industrial undertakings, with the following exceptions: (a) in the non-industrial sector; (b) in any industrial undertaking in a clerical or managerial capacity or in any health or welfare service connected with such industrial undertaking; (c) solely in cleaning the premises of an industrial undertaking, other than cleaning of machines or equipment used for production; (d) solely as a caretaker in an industrial undertaking; and (e) in the preparation of food for consumption and sale on the premises where it is prepared.

[15] "Period of employment" means the period, inclusive of the time allowed for meals and rest, within which persons may be employed on any day. "Working hours" means the time during which persons employed are at the disposal of the employer, exclusive of any intervals allowed for meals and rest. "Week" means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

from $10,000 to $50,000 upon conviction.

Occupational Safety and Health

2.10 The Occupational Safety and Health Ordinance (Cap. 509) (OSHO) provides for the safety and health protection to employees in workplaces, both industrial and non-industrial. The OSHO requires that an employer shall ensure, so far as reasonably practicable, the safety and health of their employees at work.

2.11 To protect employees from working prolonged hours without rest, the Government publicises and promotes proactively the importance of providing appropriate rest breaks for employees and has published a "Guide on Rest Breaks"[16]. Realising that different industries have different operational patterns, the Government encourages employers and employees to work out rest break arrangements which meet their specific needs through consultation.

Other Categories of Employees

2.12 Apart from the above legislation, certain types of work or occupations are also subject to working hours regulation, either in the form of statutory notice, or through occupation-specific guidelines promulgated by the relevant government authorities.

Regulation of Security Personnel

2.13 The Security and Guarding Services Ordinance (Cap. 460) was enacted in 1995 to provide for a licensing scheme to regulate the security industry in Hong Kong. An individual who performs security work for a fee or reward for another person is required to apply for a Security Personnel Permit issued by the Commissioner of Police. Likewise, a company supplying individuals who perform security work to another person for a fee or reward must be in possession of a Security Company Licence, issued by the Security and Guarding Services Industry

[16] The Guide on Rest Breaks was formulated by the Committee on Occupational Safety and Health under the Labour Advisory Board in 2000 following consultation with employers' representatives, employees' representatives and occupational safety and health professionals.

Authority (SGSIA)[17].

2.14 To ensure that security personnel have enough rest, the SGSIA has specified that, with effect from October 1995, a Security Personnel Permit holder must not work over 372 hours per month and not normally work over 12 hours per day. A Security Personnel Permit holder who does not carry out security work in accordance with the conditions imposed commits an offence and is liable to prosecution.

2.15 If a security company is in breach of licence conditions by requiring security personnel to work more than 12 hours per day under normal circumstances, the Police may take appropriate action (including the issue of warning) against the company concerned. If the breach involved is serious, the Police may apply to the SGSIA to revoke the concerned Security Company Licence.

Guidelines on Working Hours of Franchised Bus Captains and Green Minibus Drivers

2.16 In response to public concern over bus safety and bus captains' rest time, the Transport Department (TD) has since 1983 issued to franchised bus companies a set of Guidelines on Bus Captain Working Hours, Rest Times and Meal Breaks (the Guidelines). TD, in conjunction with the franchised bus companies and the bus captain unions, reviews the Guidelines from time to time.

2.17 To ensure that bus captains have sufficient rest time, TD has considerably improved the Guidelines for bus operators when they were last reviewed in 2010. The improvements include extending the break between successive working days for bus captains and further defining rest times and the duration of their meal breaks. The current Guidelines are as follows:

[17] The SGSIA is statutory body consisting of a Chairman and five Members appointed by the Chief Executive, as well as a representative of the Secretary for Security. It was established to consider and determine applications for licences by security companies under the Security and Guarding Services Ordinance, and to specify criteria and conditions for issuing Security Company Licences and Security Personnel Permits.

Guideline A - Bus captains should have a rest time[18] of at least 30 minutes after 6 hours of duty and within that 6-hour duty, they should have rest time totalling 20 minutes of which not less than 12 minutes should be within the first 4 hours of duty. The time bus captains spend at a terminal point preparing for the next departure and monitoring boarding of passengers should not be regarded as rest time.

Guideline B - Maximum duty (including all rest times) in a working day should not exceed 14 hours.

Guideline C - Driving duty (i.e. maximum duty less all rest times each of 30 minutes or more) in a working day should not exceed 11 hours.

Guideline D - The break between successive working days should not be less than 10 hours.

Guideline E - Bus captains working for a duty of not less than 8 hours in a working day should have a meal break. Bus companies should complete the improvement of meal breaks to not less than 45 minutes by the third quarter of 2011, and further improvement to not less than one hour one year thereafter.

2.18 In the meantime, to ensure that safe, efficient and reliable Green Minibus (GMB) services are provided to the public, TD has worked out with the GMB trade guidelines on the working hours of GMB drivers. The existing guidelines are as follows:

(a) each shift period of GMB drivers, including all rest breaks, should not exceed 14 hours per day; and

(b) the driving hours of GMB drivers (i.e. the maximum hours of a shift period less all rest breaks that last for 15 minutes or more) should not exceed 11 hours per day.

[18] Meal break is also regarded as rest time.

2.19 TD considers that the working hours of GMB drivers is an internal management matter of the GMB operators. Nevertheless, the department has been reminding the trade to comply with the guidelines, and has requested GMB operators to arrange proper working hours for their drivers.

Comments

2.20 While there is no statutory provision for universal standard or maximum working hours in Hong Kong, different pieces of legislation accord essential working time protection to children and young persons, as well as security personnel who are most in need of working hours protection. The relevant government authority has also issued administrative guidelines on working hours of franchised bus captains and GMB drivers.

2.21 Our dedicated, flexible and adaptable workforce has contributed significantly to the rapid development of Hong Kong's economy over the decades. The key to sustaining Hong Kong's competitive advantage and economic vitality is through striking a sensible and pragmatic balance between protecting employees' rights and benefits on the one hand and preserving the competitiveness and labour flexibility of Hong Kong on the other.

2.22 Indeed, our highly competitive economy is underpinned by a comprehensive set of labour legislation which protects employees' rights and benefits without unduly affecting our labour market flexibility, economic freedom and competitiveness. Thus any major changes to our labour legislation must be built on the consensus among all stakeholders, careful deliberation of the specific needs of different sectors of the community and sound policy formulation and implementation.

CHAPTER 3

OVERVIEW OF GLOBAL WORKING HOURS SITUATION

3.1 This Chapter provides a brief overview of the global working hours situation, including a historical account of working hours regulations with reference to the relevant International Labour Conventions (ILCs), as well as a summary of the latest developments and working hours statistics.

International Labour Conventions on Hours of Work

3.2 The history of working hours regulation could be traced back to the industrial revolution in the 18th-19th century, though the focus of the legislation at that time was on specific under-privileged groups in the community rather than workers in general. For example, the UK introduced a working hours regulation for apprentices in 1802. France introduced a similar one for young people and women in 1841 and Spain regulated working hours for minors in 1873[19]. The first international instrument on working hours was made by the International Labour Organisation (ILO) in 1919 upon its inception. This notwithstanding, the ILO still holds the view that the regulation of working hours is "a challenging area – one that is both technically complex and highly polarised in terms of the viewpoints of different actors, not least those of workers, employers and their organisations"[20]. This goes to illustrate the immense difficulty in achieving social consensus on working time regulation in many countries.

3.3 The very first ILC, the *Hours of Work (Industry) Convention, 1919 (ILC No. 1)*, limits hours of work, with certain exceptions and flexibility, for persons employed in industrial undertakings in general, to 8 hours a day and 48 hours a week, and allows a 56-hour weekly limit in case of processes to be carried on continuously by a succession of shifts. The maximum daily working hours shall not exceed 9 hours even if the

[19] Blanpain et al (1997).

[20] Lee et al (2007), p. 153.

working hours in other days of the same week are less than 8 hours. The overtime pay rate shall not be less than 1.25 times of the regular rate.

3.4 The *Hours of Work (Commerce and Offices) Convention, 1930 (ILC No. 30)* extends the principle of 8-hour working day and 48-hour work week to cover persons working in the commerce and office sectors, again with certain exceptions and flexibility. The maximum hours of work in any one day shall not exceed 10 hours.

3.5 The *Forty-Hour Week Convention, 1935 (ILC No. 47)* establishes the principle of a 40-hour work week. There are also other ILCs and International Labour Recommendations on working time covering specific concerns like weekly rest and night work[21].

3.6 Despite the adoption of the three Conventions by the ILO, their ratification rate is not high[22]. According to an ILO survey conducted in 2005[23], the low ratification rate of ILCs No. 1 (28% of all Member States) and No. 30 (16%) was related to fear of international competition; economic problems; inadequacy for a single instrument to cover the huge section of the population referred to as "salaried employees", etc. The 2005 survey also pointed out that these two major pieces of ILC on working hours regulation were often regarded by Member States as over-rigid and conflicting with today's demands for more flexibility, and hence were much in need of review.

3.7 In response, the ILO Governing Body decided in 2005 to initiate a comprehensive analysis of the issue of working time regulation. Efforts are now being made to, among others, identify the policy issues

---

[21] For example: *Weekly Rest (Industry) Convention, 1921 (ILC No. 14)*, *Holidays with Pay Recommendation, 1954 (R98)*, *Weekly Rest (Commerce and Offices) Convention, 1957 (ILC No. 106)*, *Weekly Rest (Commerce and Offices) Recommendation, 1957 (R103)*, *Reduction of Hours of Work Recommendation, 1962 (R116)*, *Holidays with Pay Convention (Revised), 1970 (ILC No. 132)*, *Night Work Convention, 1990 (ILC No. 171)*, *Night Work Recommendation, 1990 (R178)*, *Part-Time Work Convention, 1994 (ILC No. 175)*, and *Part-Time Work Recommendation, 1994 (R182)*.

[22] To date, among 185 Member States, ILC No. 1 has been ratified by only 52 Member States (including four conditional ratifications and one denounced ratification in 1989). ILC No. 30 has been ratified by 30 Member States (including one conditional ratification and two denounced ratifications in 1989 and 1999). ILC No. 47 has been ratified by 15 Member States.

[23] ILO (2005).

that would need to be addressed to develop future ILO guidance[24]. There is not yet any concrete proposal on how modern working time arrangements are to be reviewed. This again reflects how challenging it is to devise or revise the ILCs on working hours.

Global Working Hours Regulations

ILO Statistics

3.8 According to the ILO's *Working Conditions Laws Report 2010: A global review*[25], a total of 101 out of 107 countries surveyed around the world have introduced some form of statutory working hours limits. Of these, 58 countries are from Central and Southeast Europe, Middle East, Africa and South America, while 32 are the EU Member States and other developed countries, and 11 are from Asia.

3.9 Of the countries covered in the survey, 41% of them adopt a 40-hour work week, as a large number of countries have reduced their statutory normal hours of work from 48 hours to 40 hours in recent decades, while 22% maintain a 48-hour work week. The rest of the countries surveyed mostly set their weekly working hours between 40 and 48 hours.

3.10 In the Asia Pacific region, 48-hour work week is most common (46%), while the majority (67%) of the EU Member States and other developed countries have adopted a 40-hour work week. Indeed, the EU's Working Time Directive (Directive 2003/88/EC) (WTD)[26] stipulates 48 hours as the maximum working hours, while normal standard hours are left to its Member States' own regulation. According to the ILO's estimates, one in five workers (22% or 614.2 million workers) around

---

[24] In 2005, the ILO Governing Body agreed to the organisation of a Tripartite Meeting of Experts on Working-time Arrangements as a means of initiating a comprehensive analysis of the issue of working time regulation in all its multiple dimensions. The aim of the meeting (held on 17-21 October 2011) was to review and advise on modern working time arrangements, and to identify the main policy issues in relation to future ILO guidance in the area of working time. See ILO (2011).

[25] ILO (2010b).

[26] The WTD is an important piece of the EU's law aiming to establish minimum safety and health requirements through the regulation of working time.

the world is working more than 48 hours per week[27].

3.11 About four-fifths of countries have some kind of maximum limit on weekly working hours. In Asia Pacific, 31% of countries have not regulated maximum weekly limit and about 31% of the countries mandate a limit of 60 hours or more. The latter countries include Cambodia (60 hours), Singapore (61 hours), Malaysia (72 hours) and Thailand (84 hours)[28].

3.12 As for overtime remuneration, 71% of the countries surveyed provide an overtime pay rate of at least 1.25 times of their normal salary rate. About 14% of countries provide an overtime pay rate of less than 1.25 times and another 14% do not regulate overtime pay at all[29].

OECD Statistics

3.13 The Organisation for Economic Co-operation and Development (OECD) also publishes working hours statistics of its member countries. The table at **Appendix 1** shows the number of average usual weekly hours[30] worked in the main job by full-time employment in OECD countries from 2000 to 2010. According to the table, Turkey (53.2 hours), Korea (49.2 hours) and Mexico (49.2 hours) had the longest average usual weekly working hours among OECD countries, while Denmark (38.2 hours), Norway (38.5 hours) and the Netherlands (39.3 hours) had the shortest working hours.

---

27 A total of 54 countries were considered in the estimates. See Lee et al (2007).

28 These figures as quoted from the ILO (2010b) may be derived by adding weekly hours limit and average weekly overtime limit.

29 The percentage numbers do not always add up to 100% due to rounding.

30 According to OECD, "usual hours of work" per week identifies the most common weekly working schedule over a selected period of a person in employment. While no international statistical definition of "usual hours of work" exists, it has been defined as the hours worked in an activity during a typical week, as the modal value of the workers' "hours actually worked" per week over a long period. When compared with workers' "normal hours of work", the "usual hours of work" includes the overtime that occurs systematically every day or week and excludes time not worked on a usual basis. This measure is affected neither by irregular or unusual overtime, whether worked for premium pay, regular pay, or not compensated at all, nor by unusual absence or rest. In some countries (e.g. Japan), only actual hours of work instead of usual hours of work are available, and thus are not included. See OECD's website: http://stats.oecd.org/glossary/detail.asp?ID=4844

3.14 However, OECD has also emphasised that the data are unsuitable for cross-national comparisons because of national differences in sources, data categories and processes of collection. They are intended for comparisons of trends of a particular country over time. Between 2000 and 2010, there was a significant reduction of average usual weekly hours in Korea (of 4.4 hours or 8.2%) and Iceland (of 4.6 hours or 9.5%). On the contrary, Austria and Mexico saw a mild increase of 1.5 hours (3.6%) and 0.8 hours (1.7%) respectively. The rest of OECD countries in the table experienced a slight drop in average working hours from 0.4 hours to 2.2 hours except for Greece where the average weekly hours remained unchanged.

3.15 The OECD figures also reveal that for some countries their workers' average usual weekly hours are still higher than the SWH limit. For example, workers in Australia worked an average of 43.2 hours a week in 2010, more than the statutory standard working week of 38 hours. Workers in Korea worked an average of 49.2 hours a week in the same year as compared to their statutory working week of 40 hours.

Eurofound Survey

3.16 According to the European Working Conditions Survey conducted by the European Foundation for the Improvement of Living and Working Conditions (Eurofound)[31], the average length of the working week in EU-12[32] has fallen from 40.5 hours in 1991 to 36.4 hours in 2010 (the corresponding figure for EU-27 in 2010 was 37.5 hours). This decrease in working time could be attributed to the following four major factors:

(a) The decrease in the proportion of the workforce working over 48 hours per week: in EU-27 it fell from 15% in 2000 to 12% in 2010.

(b) The increase in the proportion of the workforce working less than 20 hours per week over the past two decades. In 1991, 8% of the workforce in EU-12 worked less than 20 hours; by 2010, this figure nearly doubled to 14% owing to, among others, the prevalence of

[31] Eurofound, a EU body, is one of the first established to work in specialised areas of the EU policy. See Eurofound (2010b).

[32] The EU was established on 1 November 1993 with 12 Member States (EU-12). Their number has grown to the present 27 (EU-27) through a series of subsequent enlargements. EU-12 refers to Belgium, Greece, Luxembourg, Denmark, Spain, Netherlands, Germany, France, Portugal, Ireland, Italy and the UK.

women working part-time. For EU-27 as a whole, it rose slightly from 12% in 2000 to 13% in 2010.

(c) The decrease in collectively agreed working time between employers and employees in many countries and sectors.

(d) Reductions in working hours in response to the difficult economic situation in Europe – be they the result of individual company decisions or state-sponsored short-time working schemes – may also have contributed to the shortening of working hours.

3.17 The Survey remarked that discussions at the EU level over the last 20 years had focused on making more flexible working time and facilitating shorter working hours, with the objective of making available more jobs to citizens and achieving better work-life balance.

Comments

3.18 Although the ILO has made early adoption of some major ILCs on working time, the ratification rate of these ILCs by Member States over the years has not been high. While many European and developed economies adopt 40-hour work week, 48-hour work week is especially prevalent in Asia Pacific. Despite the marked reduction in average working hours in OECD countries, it is observed that some of these countries still have considerable disparity between the statutory weekly hours limit adopted and the average weekly hours worked, which reflects to some extent the effectiveness of such regulations in reducing working time. As for overtime pay rate, most economies provide a rate of at least 1.25 times of the normal wage rate.

3.19 The global working time situation no doubt provides a useful reference in formulating Hong Kong's working hours policy. However, we must always consider our local social and economic circumstances. In fact, it has been an international consensus, as reflected in the relevant International Labour Recommendation, that specific circumstances of individual places must be duly considered in pursuing working hours reduction. For instance, the *Reduction of Hours of Work Recommendation, 1962 (R 116)* suggests that the following should be taken into account in pursuing the goal of 40-hour week:

(a) The level of economic development and the extent to which the country can reduce working hours without reducing productivity, endangering its economic growth, weakening its competitiveness, and creating inflationary pressures which would ultimately reduce the real income of the workers.

(b) The progress achieved in raising productivity by the application of modern technology, automation and management techniques.

(c) The need for improving the people's living standards in the case of countries still in the development process.

(d) The preferences of employers' and workers' organisations as to how working hours might be reduced.

3.20 Echoing the above principles, an ILO publication[33] also pointed out that, in devising working time policies, one must seriously consider its own needs and circumstances, including its level of development, labour relations, legal systems, and cultural and social traditions.

[33] Lee et al (2007), p. 154.

CHAPTER 4

STUDY OF WORKING HOURS REGIMES IN OTHER PLACES

Introduction

4.1 In this Chapter, we will introduce the essential components of a working hours regime based on the experience of 12 selected places, namely: Singapore, Korea, Japan, the Mainland, Macao, Taiwan, Australia, the EU (the EU as a whole, with particular reference to the UK and Belgium), the US and Canada. In selecting these places, we took into account their similarities to Hong Kong in terms of the level of economic development, or social and cultural background. A summary of our study findings of each working hours regime is set out in **Appendices 2.1 to 2.12**[34].

4.2 Apart from desktop research, we also undertook study missions to Singapore, Macao, Korea, Japan, Belgium (the EU's headquarters) and the UK[35]. We visited the government departments responsible for working hours policy, major trade unions and employers' associations to learn about their working hours regimes and experience in implementation, and to keep abreast of their latest concerns and developments regarding working hours.

4.3 Our research points to at least five essential components in a working hours regime, namely:

(a) standard or maximum working hours limit;

(b) overtime limit and overtime pay;

---

[34] The Appendices set out the major features of the working hours regimes of the economies under study and are intended for a general overview. They are prepared with reference to the relevant legislation, regulations and information posted on websites of or guidelines issued by the relevant governments or organisations. They do not cover leave arrangements (e.g. annual leave and statutory holidays) which may be given in the same set of legislation under study. Please refer to the relevant legislation for full details of working hours provisions of a specific economy.

[35] In compiling Part II of the report, apart from making reference to working hours literature and conducting desktop research, we have also incorporated information obtained from exchanges with officials in various organisations during our study missions.

(c) exemptions;

(d) flexibility arrangements; and

(e) rest period.

Each component has certain implications or assumptions. For example, standard hours limit raises the question of what proper work-life balance is. Maximum hours limit presupposes a specific point beyond which working hours become excessive. While overtime premium creates disincentives for employers' use of overtime, it may also provide incentives for employees to work longer hours. Exemption assumes that certain categories of employees/industries/companies require special treatment under the law.

Working Hours Limit

4.4 Working hours limit is the most basic component of any working hours regime. They may take the form of standard or maximum limit.

Standard Hours Limit[36]

4.5 Standard hours limit is the number of hours that employees are expected to work on a regular basis, for example, a day or a week. Usually, regimes with standard hours limit also stipulate in their national legislation an overtime pay rate at which work beyond the standard hours should be remunerated. For example, the US regime requires that employees must receive overtime pay for hours worked in excess of 40 in a work week of not less than 1.5 times of their regular rates of pay. The imposition of SWH in the US regime helps employees secure higher earnings. However, with monetary rewards, employees may be motivated to work more overtime, thus resulting in longer working hours for some. Such longer hours, in turn, can cause safety and health problems (e.g. stress and accidents). With less time for domestic life, employees may find it even more difficult to balance work and family responsibilities. Therefore, work-life balance may, in some cases, be upset in the end.

[36] The term "normal hours limit" is also commonly used in literature on working hours. We use "standard hours limit" in this report for presentation consistency.

Maximum Hours Limit

4.6 On the other hand, a maximum working hours regime raises questions about the point beyond which working hours become excessive and should be stopped, regardless of whether additional compensation would be given to the employees. It thus focuses more on how workers can get adequate rest with a view to enhancing their safety and health protection. However, whether to set a maximum hours limit presents a dilemma between meeting the needs of business to adjust to temporary fluctuations of demand and protecting workers' safety and health. Once the limit of maximum hours is prescribed, workers' ability to earn overtime pay will also be restricted. Furthermore, the way this limit is calculated may have significant consequences for businesses' operational flexibility.

Overtime Limit and Overtime Pay

Overtime Limit

4.7 Most working hours regimes covered in this study, except for the UK, the EU and Australia, regulate how much overtime can be worked beyond the standard working day/week (e.g. setting a limit of allowable overtime), and stipulate the overtime pay for the work done[37]. Overtime limits may be set by reference to timeframes of a day, a week, a month, a year, a combination of them and/or any other time period.

4.8 Some regimes (e.g. those on the Mainland, in Taiwan and Canada) prescribe that the overtime limit may be exceeded when there is a need to respond to urgent or extraordinary circumstances, such as to perform urgent public work, cope with natural disaster, carry out emergency repairs to machinery or deal with sudden increases in workload.

4.9 Many regimes also set out the procedures that should be followed before overtime is allowed. Employers concerned may be required to obtain the consent of or reach agreements with individual workers, their

[37] The EU and the UK do not regulate overtime work or overtime pay under the relevant legislation (other than prescribing the maximum weekly limit of 48 hours including overtime). Australia also does not define overtime work or set overtime pay rate under its labour legislation. The only limit on prescribed overtime hours is that additional hours requested or required by an employer must be reasonable. The US stipulates the overtime pay rate but not the overtime limit in its labour legislation.

representative(s) or unions. Korea, Japan, the Mainland, Macao, Taiwan and Canada fall under this category. A government authority may have to be informed (e.g. in Japan and Taiwan) or their consent be given for working beyond the overtime limit (e.g. in Singapore and Canada). It is also possible to have limits adjusted by collective agreements between employers and employees (e.g. in Australia).

Overtime Pay

4.10 An overtime limit is set to preserve workers' safety and health. Overtime hours may be compensated by a pay at premium rate[38] in most regimes, or by time-off or compensatory rest period to be taken (e.g. as in Korea and Japan), or both (e.g. as in Belgium).

4.11 A number of places (e.g. Singapore, the US and Canada) specify a single premium rate of 1.5 times. Others vary their premium rates for different circumstances, ranging from 1.2 times (e.g. Macao) to 3 times (e.g. overtime work on statutory holidays on the Mainland). Some places simply leave the overtime pay rates to be determined by employment contracts (e.g. the UK), or collective agreements (e.g. Australia) or industrial tribunals (e.g. modern awards[39] in Australia). Some places tend to require increased rates for overtime hours that are excessively long (e.g. Japan), during the night (e.g. Japan), on weekly rest days (e.g. the Mainland and Belgium) and during statutory holidays (e.g. the Mainland and Belgium). On the other hand, the EU does not deal with overtime work or overtime pay. A regime may also set different premium rates depending on whether the overtime is voluntary or not. In Macao, the premium is 1.2 times if there is employees' consent, but 1.5 times if there is not.

Exemptions

4.12 Exemptions from working hours limits are common and allowed under different categories, such as:

(a) by occupation or job responsibility (e.g. in all regimes under study

[38] ILC No. 1 provides for an overtime pay rate of not less than 1.25 times of the regular rate.

[39] Modern awards, which are legally binding instruments created by the industrial tribunal, regulate employment terms (e.g. the range and number of hours of work, various types of leave and rest breaks) on an industry or occupation basis.

except Australia);

(b) by salary level (e.g. in Singapore, Australia and the US);

(c) by industry or sector (e.g. in Korea);

(d) by size (e.g. in Korea) or sales volume of company (e.g. in the US); and

(e) other exceptional circumstances.

These regimes either exempt certain categories of employees, industries and/or companies from the entire working hours legislation or from certain provisions pertaining to working hours. For details, please refer to paragraphs 5.35 to 5.50.

Flexibility Arrangements

4.13 In many regimes under study, the legislation allows the statutory hours limit to be averaged over a certain period of time called "reference period" (e.g. two weeks, one month or even longer, etc.), so that employees and employers can schedule working hours flexibly on a daily and weekly basis. Within the reference period, any hours worked beyond the standard limit in individual days/weeks can be worked without resort to overtime pay, as long as the average weekly working hours do not exceed the statutory limit.

4.14 Other flexibility measures include tailor-made working hours systems for specific industries or occupations, which may include a separate set of working hours limits or reference period. The EU regime also allows its Member States to opt-out from the 48-hour maximum weekly limit. Both the UK and Belgium have made use of such opt-out. Detailed discussions of flexibility arrangements are given in paragraphs 5.51 to 5.63.

Rest Period

4.15 It is worth noting that weekly hours or overtime limits are not the only measure that can contribute to the reduction of working hours. Other measures such as rest periods also play a role in ensuring that employees do not work prolonged working hours. All regimes covered in this study provide certain forms of rest periods to preserve employees' safety

and health, including: (a) rest breaks within a working day; (b) daily rest periods between two consecutive working days; and (c) a weekly rest day.

4.16 While four regimes under study do not stipulate statutory rest breaks (e.g. the Mainland, Australia, the US and Canada), others require a break from 15 minutes to an hour (see **Table 4.1**). Those with rest breaks also specify the minimum number of hours that should be worked for the entitlement, which varies from 4 to 8 hours. Moreover, some regimes mandate a longer break when daily hours are extended (e.g. in Singapore, Korea and Japan).

Table 4.1: Rest Breaks for Economies Covered in This Study

Singapore	● A break (duration not specified) for work > 6 hours ● ≧ 45-minute break for work > 8 hours
Korea	● > 30-minute break for work > 4 hours ● > 1-hour break for work > 8 hours
Japan	● ≧ 45-minute break for work > 6 hours ● ≧ 1-hour break for work > 8 hours
Macao	● ≧ 30-minute break for every 5 hours' work
Taiwan	● ≧ 30-minute break for every 4 hours' work
The EU	● A break (duration not specified) for work > 6 hours
The UK	● 20-minute break for work > 6 hours
Belgium	● 15-minute break for work > 6 hours

4.17 The UK's regime guarantees a daily rest period of at least 11 hours between consecutive working days/shifts and a weekly rest day of at least 24 hours in every 7 days. The daily rest period and weekly rest day, in this context, also serve as an ultimate limit on maximum daily and weekly hours (on top of the maximum weekly limit of 48 hours).

4.18 As regards weekly rest period, both ILCs No. 14 and No. 106[40] fix a minimum of 24 hours of uninterrupted rest every 7 days. Almost all regimes provide for a minimum period of weekly rest, and most stipulate it in the form of one day or 24 hours. There are only two exceptions: the US does not specify a rest day in federal legislation, while Australia leaves the regulation of weekly rest period to modern awards. Like overtime, working on a rest day in some regimes can be compensated by extra pay, or compensatory rest, or both. Normally, overtime pay rate for the work done on rest days ranges from 1.35 times (as in Japan) to 2 times (as on the Mainland) of the regular rate.

Comments

4.19 The working hours regimes covered in this study comprise certain essential components including working hours limit, overtime limit and overtime pay, exemptions and flexibility arrangements, etc. but the content of each component may vary greatly and no two regimes are identical.

4.20 In terms of weekly working hours limits, a 40-hour week appears to be more common. However, the regimes under study have a variety of weekly limits ranging from 38 to 48 hours. Overtime limits, should they be adopted, vary even more across regimes, as they may be set by a day, a week, a month, a year, a combination of them and/or any other period. A number of regimes specify a single premium rate of 1.5 times, but others set different rates under different circumstances. Some regimes also provide for rest breaks ranging from 15 minutes to an hour for work interval of 4 to 8 hours. As will be explained in Chapter 5, the measures on exemptions and flexibility arrangements adopted by different economies are also very diverse.

4.21 The design of working hours regimes needs to take into account the specific socio-economic and cultural characteristics of each economy as well as the concerns of individual sectors. All these dimensions need to be considered carefully in formulating a working hours policy.

---

[40] That is the *Weekly Rest (Industry) Convention, 1921 (ILC No. 14)*, and the *Weekly Rest (Commerce and Offices) Convention, 1957 (ILC No. 106)*. The *Weekly Rest (Commerce and Offices) Recommendation, 1957 (R103)* further suggests a 36-hour rest period.

CHAPTER 5

OBSERVATIONS ON REGIME DESIGN

5.1 In the preceding Chapter, we have reviewed a total of 12 different working hours regimes, with each of them varying greatly in the essential components. The fundamental reason for these differences lies in the design of the regime, which was heavily influenced by each economy's own social, economic and cultural characteristics, as well as the result of subsequent amendments having regard to actual experience gained during implementation and other later developments. While it is obvious that we should not consider directly copying any of these regimes and transplanting it to Hong Kong, the experience of these economies in designing their own regimes offers valuable insights for the future deliberation of working hours policy in Hong Kong. We have identified the following five issues that are crucial to the design of any regime, namely:

(a) definition of "working hours";
(b) objectives of working hours policy;
(c) "standard working hours" vs "maximum working hours";
(d) exemptions; and
(e) flexibility arrangements.

Definition of "Working Hours"

5.2 The concept of "working hours"[41] is central to the operation of any working hours regime. Key components such as daily/weekly working hours limit and rest periods are closely related to the definition of "working hours", without which ambiguities may arise and may lead to severe labour disputes at heavy social costs, eventually requiring court interpretation.

[41] Different regimes may adopt different terminologies for "working hours" such as "hours of work" (e.g. Singapore), "hours worked" (e.g. the US) and "working time" (e.g. the EU and the UK).

5.3 Among the 12 regimes studied, six (including Singapore, Macao, the EU, the UK, Belgium and the US) have specifically defined "working hours" in their legislation. These definitions generally comprise the key element of "the time during which the employee is at the disposal of the employer"[42]. The UK and US Governments also provide guidelines to assist employers and employees to determine whether certain situations fall within or outside the definition of working time.

5.4 Out of the 12 regimes studied, eight legislated for daily rest breaks to be taken during the working day (i.e. Singapore, Korea, Japan, Macao, Taiwan, the EU, the UK and Belgium) (see **Table 5.1**). Among these regimes, most do not stipulate rest breaks, and for that matter meal breaks, as working hours[43]. Only Singapore, Korea and Japan have expressly excluded rest breaks from working hours. In fact, in ILC No. 30, the definition of working hours also excludes rest periods during which the persons employed are not at the disposal of their employers. In Macao, rest break is counted as working hours only when the employees are not allowed to freely leave their workplace during break. As to whether daily rest break should be paid, only Korea stipulated that it is unpaid, while the rest are silent on this point.

Table 5.1: Daily Rest Break in Legislation of Different Economies

Regimes under study	Working hours defined?[44]	Daily rest break prescribed?	Daily rest break included as working hours?	Daily rest break must be paid?
Singapore	✓	✓	×	Not specified
Korea	×	✓	×	×

[42] A similar definition is also adopted in ILC No. 30 in which hours of work is the time during which the persons employed are at the disposal of the employer.

[43] In the EU, provisions also vary among Member States in whether daily rest breaks are to be counted as working time or as rest time. See European Commission (2010), p. 108.

[44] For the purpose of this report, working hours is considered to be defined in a regime if it explains the circumstances or activities which constitute working hours. Therefore, "contractual working hours" and "ordinary hours of work" given in relevant Korean and Australian legislation respectively which do not contain the above elements are not regarded as definitions of working hours in this report. Please refer to the sections of "Major Definitions" under relevant parts of **Appendices 2.1 to 2.12** for details.

Regimes under study	Working hours defined?[44]	Daily rest break prescribed?	Daily rest break included as working hours?	Daily rest break must be paid?
Japan	×	✓	×[45]	Not specified
The Mainland	×	×	Not specified	Not specified
Macao	✓	✓	✓/× [depends on whether or not employees can freely leave the workplace]	Not specified
Taiwan	×	✓	Not specified	Not specified
Australia	×	×	Not specified	Not specified
The EU	✓	✓	Not specified	Not specified
The UK	✓	✓	Not specified	Not specified
Belgium	✓	✓	Not specified	Not specified
The US	✓	×[46]	✓ [rest break of short duration within a working day] / × [meal break]	Not specified
Canada	×	×	Not specified	Not specified

5.5 The section below explains how to construe working time and their application in practice in selected economies.

The EU

5.6 In the case of the EU, the most controversial issue relating to the definition of working time concerns the treatment of "on-call" time,

[45] According to the Labour Standards Act of Japan, the working hours shall not exceed 8 hours per day and 40 hours per week excluding rest periods.

[46] The US federal legislation does not specifically provide for daily rest break, but according to the Code of Federal Regulations, if these short periods are provided by employers, then they should be counted as working hours.

which we also need to carefully consider should a working hours regime be set up in Hong Kong. The ambiguity in the definition of working time under the EU's WTD[47] necessitated interpretation by the European Court of Justice (ECJ), which impacts profoundly on the implementation of the WTD by the EU Member States.

5.7 In October 2000, the ECJ passed judgement on the *SIMAP* case[48] concerning the status of "on-call" time. It ruled that "on-call" time would amount to working time when an employee is required to be at his place of work during that "on-call" time. If an employee is permitted to be away from the workplace when "on-call" and free to pursue leisure or any other activities, "on-call" time would not amount to "working time" until they are called upon by the employer. The judgement related to doctors employed in primary health care teams, but a similar situation also applies to other sectors where "on-call" is the working practice.

5.8 A further ECJ judgement in September 2003 about "on-call" time, commonly referred to as the *Jaeger* case[49], indicated that periods of "on-call" duty carried out by a doctor in a place stipulated by the employer, i.e. hospital, constitute in their entirety working time. This also applies even if the doctor is provided with a bed during that "on-call" time and is able to sleep during periods of inactivity. This judgement also applies to employees in other sectors.

5.9 The above judgements have a major impact on sectors with large numbers of employees involved in "on-call" duties, e.g. health sector, residential care and other 24-hour public service. Many EU Member States encounter great difficulties in complying with the judgements in view of their manpower and financial implications, among others. Staff shortage is prevalent in some sectors such as public health. Thus the compliance situation among Member States is unsatisfactory. It is also against this background that, since these two judgements were

---

47 According to Article 2 of the WTD, "working time" means any period during which the employee is working at the employer's disposal and carrying out his activity or duties, in accordance with national laws and/or practice.

48 ECJ C-303/98, *Sindicato de Medicos de Asistencia Publica (SIMAP) v Conselleria de Sanidad y Consumo de la Generalidad Valenciane* ECR [2000], I-7963.

49 ECJ C-151/02, *Landeshauptstadt Kiel v Norbert Jaeger* ECR [2003], I-8389.

delivered, 15 more Member States out of 27 used the opt-out clause as allowed under the WTD for not applying the 48-hour weekly limit to the affected sectors[50].

5.10 The extensive use of opt-out by Member States to enhance deployment flexibility (see paragraphs 5.60 to 5.62) was criticised by the European Parliament as taking away the protection of employees, placing them at safety and health risk and defeating the very objective of the WTD. Indeed, all EU stakeholders have agreed on the need for a comprehensive review of the WTD. As the review of the WTD is still ongoing, the EU has yet to resolve this highly contentious issue.

The US

5.11 In the US, while the federal legislation does not specifically provide for daily rest break, rest periods of short duration, usually 20 minutes or less, are common in industry and are customarily paid for as working time. According to the Code of Federal Regulations, if these short periods are provided by employers, then they should be counted as working hours. On the other hand, unauthorised extensions of permitted work breaks need not be counted as working hours when the employer has told the employees about the length of the break, and any extension of the break is against the employer's rules and will be punished.

5.12 The Code of Federal Regulations also specifies rules on "on-call" time. An employee who is required to remain "on-call" on the employer's premises is working while "on-call". An employee who is required to remain "on-call" at home, or who is allowed to leave a message where he can be reached, is not considered working (in most cases) while "on-call". Additional constraints on the employee's freedom could require such time to be compensated.

[50] Prior to the ECJ's rulings, the UK was the only Member State that used opt-out under the WTD. Currently, among the 16 Member States applying opt-out, five use opt-out across all sectors apart from affected ones. They are Bulgaria, Cyprus, Estonia, Malta and the UK. Even for those Member States which use opt-out as allowed under the WTD, it is only applied to individual worker who agrees to opt-out from the 48-hour limit. Other provisions such as daily rest and rest break still apply.

Korea and Japan

5.13 Both Korea and Japan have systems in place where it is difficult to calculate or determine the actual working hours, the number of working hours as previously agreed between the employer and the employee may be deemed as the actual working hours, regardless of the hours actually worked. More details about the systems will be given in paragraphs 5.54 to 5.55.

Comments

5.14 With globalisation and an ever-changing business environment, working patterns have become more diverse. For example, some employees may work at home after normal working hours with the assistance of information technology. Employers and employees may have different views as to whether and how such work should be compensated. Thus it is a great challenge to come up with an all-encompassing definition of working hours. The EU's experience is valuable and should be taken into account in designing a working hours policy. Careful deliberation of what constitutes "working hours", particularly "on-call" time, is essential to avoid ambiguity as far as possible.

Objectives of Working Hours Policy

5.15 The social value, level of economic development as well as cultural background of an economy play a significant role in shaping its working hours policy. For instance, while the regulation of working hours in many places aims mainly to safeguard employees' occupational safety and health, others introduce the policy to help achieve job creation and sharing. In considering Hong Kong's case for an SWH policy, we should make reference to the experience of these places while acknowledging Hong Kong's specific economic and social conditions.

5.16 Examples in other places show that working hours policy may serve the following major policy objectives:

(a) Occupational safety and health.

(b) Job creation and sharing.

(c) Better work-life balance.

(d) Fair compensation for overtime.

Each of these objectives will be discussed in the following paragraphs.

Occupational Safety and Health

5.17 Preserving employees' health and workplace safety by regulating the number of hours they work over a period of time is one of the fundamental goals of the working hours policies of the economies we have studied. According to an ILO publication, "weekly hours limits are working time law's primary method of preventing regular or persistently long hours. Where influential, these limits play the most significant role in determining the volume of hours worked each week. Thus they make a substantial contribution towards protecting employees' safety and health"[51].

The EU

5.18 The WTD is the EU's main piece of safety and health legislation which lays down the minimum requirements for the organisation of working time. It is clearly stated in the preamble of the WTD that "improvement of workers' safety, hygiene and health at work is an objective which should not be subordinated to purely economic considerations". Thus the WTD provides that each Member State must ensure that every employee is entitled to a limit in weekly working time which must not exceed 48 hours on average including overtime.

Japan

5.19 Since the 1970s, there was increasing public concern in Japan over the detriment to employees' health owing to extraordinarily long working hours on a continual basis, which sometimes resulted in fatalities. This gave rise to a movement demanding employees' compensation for *Karoshi*[52]（過勞死）. It was against this background that in 1987 the

[51] Lee et al (2007), p. 7-8.

[52] *Karoshi* means "death by overwork". It includes not only death cases, but also cases with permanent disability. It was legally recognised as a cause of death in the 1980s. The Japanese government authority set the following standards for the judgement of recognising *Karoshi*: 100 overtime hours or more for the past one month or 80 overtime hours or more per month for the past two to six months before the onset of the diseases.

Japanese Government made a major revision to the Labour Standards Act (the Japanese LSA) to reduce the 48-hour work week implemented since 1947 to 40-hour work week in phases[53].

5.20 The experience of the EU and Japan are just two examples of how economies deal with the working hours issue from the perspective of protecting employees' occupational safety and health. In fact, it remains a commonly accepted objective underlying working hours regulation at the international level.

Job Creation and Sharing

Korea

5.21 While Korea has its working hours regime first established in 1953, the evolution of working hours policy in Korea was the result of economic fluctuation as notably witnessed during the Asian Financial Crisis in 1997 and the global financial tsunami in 2008. "The debate around reducing the 44-hour limit [to 40 hours per week] that began in the wake of the economic crisis in 1997 was centred initially on tackling unemployment. As the economy recovered, the goals envisioned for the hours reduction shifted towards improving work-family reconciliation and quality of life"[54].

5.22 As with the case of many other places, the financial tsunami in 2008 caused a great disruption to the Korean economy. To overcome the crisis, job creation was put at the heart of the country's policy agenda. The Korean Government strove to create and promote decent part-time jobs through offering financial support to companies that actively created jobs by reducing the working hours in existing jobs.

Better Work-life Balance

Australia

5.23 In Australia, one of the objectives of the Fair Work Act 2009 (Cth) (FW

[53] The goal of 40-hour work week was established in principle in 1987. The duration of the work week was set at 46 hours in 1988, 44 hours in 1991 and 40 hours in 1994.

[54] Lee et al (2007), p. 12-13.

Act) effective in 2009 is to assist employees to balance their work and family responsibilities by providing for flexible working arrangements. To this end, the FW Act includes "requests for flexible working arrangements" as part of the National Employment Standards. An employee with at least 12 months' service who is a parent, or has responsibility for the care of a child, may request a change in their working arrangements (e.g. changes in hours, patterns or location of work[55]) if the child is under school age; or under 18 and has a disability. An employer may only refuse the request on reasonable business grounds.

Japan

5.24 The latest amendments to the Japanese LSA effective in 2010 aimed at, among other things, achieving good work-life balance through reducing working hours. Moreover, Japan is experiencing shrinkage in labour force owing to an ageing society exacerbated by a low and declining birthrate. The ratio of those working very long hours, particularly men at child-rearing stage, remains at a high level. To discourage employers from requiring their employees to work very long hours, the Japanese LSA was amended to increase the overtime pay rate from 1.25 times to 1.5 times for overtime worked in excess of 60 overtime hours per month.

Fair Compensation for Overtime

The US

5.25 In most of the regimes we have studied, overtime compensation, though an important issue, is not the major policy goal. However, fair compensation for overtime seems to be a prominent feature of the working hours policy of the US. Employees covered by the Fair Labour Standards Act of 1938 (FLSA) must receive overtime pay for hours worked in excess of 40 in a work week at a rate not less than 1.5 times their regular rate of pay. The FLSA does not cap the maximum hours that an employee aged 16 or above may work on weekdays, rest days or weekends. It also does not require an higher overtime pay rate

[55] Examples of changes in working arrangements may include: changes in hours of work (e.g. reduction in hours worked, changes to start/finish times); changes in patterns of work (e.g. working "split-shifts" or job sharing arrangements); and changes in location of work (e.g. working from home or another location).

for working on Saturdays, Sundays, holidays, or regular days of rest, which is the case in many other regimes to discourage employees from working on these days. The law specifically states that overtime pay cannot be waived by agreement between the employer and the employee.

Other Regimes

5.26 In other regimes that we have studied, mandatory overtime premium mainly serves the purpose of discouraging employers from having their employees work excessive overtime and thereby reducing their total working hours. However, in Korea and the Mainland, "overtime payments often constitute a regular and substantial element of wage packages and are relied on to ensure a decent standard of living"[56]. In other words, the regulation of overtime pay, which was originally intended to avoid excessive work, became a means of supplementing the basic wages of employees. This underlines the importance of setting clear objectives for the working hours policy. For example, if the goal is simply to achieve overtime compensation, a working hours regime may only need to incorporate a certain level of weekly hours beyond which overtime pay must be made, as in the US regime.

Comments

5.27 Different stakeholders advocating the regulation of working hours may hold different views of its objectives, which would eventually lead to very different regime designs. It is of utmost importance that the community has come to a consensus on the objectives before deciding on the regulatory approach and framework. Moreover, it is unrealistic to expect that there exists a single regime design that can fully meet all the objectives mentioned in paragraph 5.16.

"Standard Working Hours" vs "Maximum Working Hours"

5.28 While both SWH and maximum working hours could be used to reduce excessive hours of work, they are indeed very different conceptually and practically. In gist, the former aims to set the normal number of hours that an employee should work during a defined period of time, while the

[56] Lee et al (2007), p. 121.

latter aims to cap the total number of hours that an employee should work within that period. This section will examine how these two concepts are reflected in the regimes under study.

Standard Working Hours

5.29 SWH are the number of hours that employees are expected to work on a regular basis (e.g. a day or a week) and beyond which overtime pay is required. They are therefore often interpreted as the number of hours that an employee could work before overtime pay is applicable[57]. In some economies, these hours are called "normal hours limits". Most working hours regimes mandate these limits by laws or regulations on a daily or weekly basis (or both). Initially, SWH were mainly imposed to preserve employees' safety and health. Nowadays, they also serve other policy objectives such as helping employees to achieve better work-life balance (e.g. Australia), or reducing unemployment through job sharing (e.g. Korea).

5.30 For those regimes which adopt standard daily limits, the 8-hour day is most common (e.g. Singapore, Korea, Japan, the Mainland, Macao, Taiwan and Canada). In terms of weekly limits, while a 40-hour week is prevalent (e.g. Korea, Japan, the Mainland, the US and Canada), the number of such weekly limits could also vary significantly from 38 hours (e.g. Australia), 44 hours (e.g. Singapore), to 48 hours (e.g. Macao).

Maximum Working Hours

5.31 To prevent excessive working hours, the EU adopts a maximum weekly limit of 48 hours. Many other regimes introduce a cap on weekly overtime hours (e.g. 12 hours in Korea) and/or monthly overtime hours (e.g. 36 hours on the Mainland, 45 hours in Japan[58], 46 hours in Taiwan and 72 hours in Singapore[59]). The standard hours limits together with

[57] Normal weekly hours of work is generally taken to mean the number of hours per week in excess of which any time worked is remunerated at overtime pay rate. See ILO (2010b) and McCann (2005).

[58] Japan is one of the few economies with different overtime limits for different periods of time from one week up to one year. For details, please refer to **Appendix 2.3**.

[59] This monthly overtime limit may be exceeded if the government has granted an exemption.

overtime limits constitute the absolute maximum working hours limits of these economies. Macao indirectly sets the maximum limits by mandating uninterrupted daily rest periods[60].

5.32 On the other hand, the US does not set any maximum working hours limits. Likewise, although the federal legislation in Australia provides for a maximum of 38 hours plus any reasonable number of additional hours, there is no provision to cap the maximum number of "additional hours" that can be worked. In other words, these two economies have not set any upper limits on working hours for their employees.

5.33 Theoretically, maximum working hours should be the absolute limit that an employee should work within a certain period of time. However, as we will explain in later sections, such limits may be exceeded under certain agreed circumstances (e.g. by exemptions of certain industries or occupations) or exceptional situation (e.g. emergency work related to accidents). Besides, maximum working hours may be averaged over a reference period. In the UK, the 48-hour limit is expressed as an average over a 17-week period. In such case, working hours in some weeks will also exceed the maximum limits.

Comments

5.34 While both standard and maximum limits conceptually aim to reduce hours of work, their emphases are quite different (e.g. regimes adopting maximum working hours may put less emphasis on overtime pay and relevant arrangements), and therefore they may bring about different results. The social and cultural background may play a role in the choice of a standard or a maximum limit. For example, all Asian economies under study have adopted SWH with overtime limits. For those hours worked that exceed the weekly limit, employees' wages are remunerated based on the statutory overtime pay rate. This in turn may provide an incentive for employees to work harder and longer to earn a higher income. In fact, this may partly be the reason why employees in Asia generally work longer hours than their European counterparts. It also reflects the Asian hardworking culture which is relevant to the context of Hong Kong.

[60] By the same token, employees in the EU (including the UK and Belgium) who choose not to be covered by the maximum weekly working hours provisions (i.e. exercising opt-out) will also have implied maximum weekly working hours due to the entitlement of daily and weekly uninterrupted rest periods.

Exemptions

5.35 Exemptions from working hours limits are found in all the regimes studied and represent an essential component in a working hours regime. Indeed, such exemptions are vital for the effective provision of essential public service, such as health, fire services and the police, which are characterised by long hours and the need for uninterrupted round-the-clock service. Exemption also applies to certain nature of work or job responsibilities, such as work which is inherently intermittent (e.g. caretaker), supervisory or professional employees who have autonomy in determining their own working hours. In fact, as mentioned in Chapter 4, these exemptions may take a number of forms, for example:

(a) by occupation or job responsibility;
(b) by salary level;
(c) by industry or sector;
(d) by size or sales volume of company; and
(e) other exceptional circumstances.

5.36 The regimes examined all feature exemptions based on at least one of the criteria mentioned above, and in fact most of them use a combination of the criteria. For example, in Korea, exemptions are provided on the basis of job responsibility, industry or size of company (depending on the specific provisions). It is also common that working hours provisions do not apply in extraordinary situation such as accidents and force majeure, etc. In fact, these measures echo with the exemptions or exceptions as allowed under ILCs No. 1 and 30 on working hours. Exemption arrangements of the regimes studied along with relevant provisions of the ILCs are summarised below[61].

By Occupation or Job Responsibility

5.37 We notice that it is common for some occupations or job responsibilities to be excluded from certain or all provisions of a working hours regime, including:

[61] Please refer to **Appendices 2.1 to 2.12** for details about the specific working hours provisions which exempt the employees or industries concerned.

(a) managerial, supervisory or professional work (e.g. all regimes studied except the Mainland and Australia[62]);

(b) government employees (e.g. Singapore, the Mainland, Macao, Taiwan and Belgium);

(c) domestic workers (e.g. Singapore, Japan, Macao, Taiwan, the UK, Belgium and the US[63]);

(d) surveillance or intermittent work (e.g. Korea, Japan and Taiwan);

(e) work outside of the establishment not subject to immediate control of superiors (e.g. Macao);

(f) employees performing research work without supervision (e.g. Macao);

(g) sales representatives (e.g. Belgium) or "outside sales"[64] (e.g. the US); and

(h) apprentices (e.g. Macao).

5.38 Other special categories being exempted include family members[65] (e.g. Korea, Japan, the EU, the UK and Belgium) and employees working from home (e.g. Belgium). Lastly, the working hours of specific categories of employees who may be regulated by separate legislation such as seafarers may also be exempted from the general working hours regime (e.g. Singapore, Japan, Macao, the UK and Canada).

5.39 Some of the exemptions mentioned above are actually provided under ILCs No. 1 and/or 30, including, among others:

(a) persons holding positions of supervision or management or employed in a confidential capacity;

(b) offices in which the staff is engaged in connection with the administration of public authority;

---

62 However, senior managers in Australia are usually excluded from the coverage of modern awards. For details, please refer to **Appendix 2.7**.

63 Domestic workers who reside in their employers' residences are exempted.

64 Outside sales is a salesperson whose primary duty is to make sales or obtain orders or contracts for services, or for the use of facilities for which a consideration will be paid by a client. He should be customarily and regularly engaged away from the employer's place or places of business.

65 In the EU and UK, employees in family-run businesses who are family members are exempted. In Belgium, those who are employed in a family enterprise where usually only parents, in-laws or wards are employed under the exclusive authority of the father, mother or guardian are exempted. In Korea and Japan, businesses employing only relatives living together are exempted.

(c) travellers and representatives, in so far as they carry on their work outside the establishment; and

(d) establishments in which only members of the employers' families are employed.

Exceptions are also provided under ILC No. 30 for persons whose work is inherently intermittent, such as caretakers and persons employed to look after working premises and warehouses, whose hours of work are allowed to be averaged over a period longer than a week.

By Salary Level

5.40 Apart from occupations or job responsibilities, an employee whose salary is above a certain level may also be excluded from working hours regulations (e.g. Singapore, Australia and the US).

Singapore

5.41 Part IV of the Employment Act governing the terms and conditions on hours of work, overtime, rest breaks and rest days only applies to workmen earning not more than S$4,500 (HK$27,450)[66] basic monthly salaries and employees earning not more than S$2,000 (HK$12,200) basic monthly salaries[67]. In other words, workmen and employees with monthly earnings above their salary ceiling are not protected by the provisions on working hours and overtime. The rationale is that the Employment Act is intended to provide for basic employment protection particularly for employees who are more vulnerable.

Australia

5.42 High income employees in Australia may also be excluded from the coverage of modern awards if an employer gives them a written guarantee of annual earnings for a period of 12 months or more; and the employees accept the guarantee. To qualify as a high-income employee, his annual earnings must exceed a "high income threshold" stipulated by the Fair Work Regulations 2009 which is revised every

[66] All foreign currencies mentioned in this report are converted into Hong Kong Dollars at the currency exchange rate published by the Hong Kong Association of Banks on 5 June 2012.

[67] Please refer to **Appendix 2.1** for definitions of workmen and employees.

financial year. The figure that will be adjusted on 1 July 2012 for full-time employees is A$123,300 (HK$937,080).

The US

5.43 It is noteworthy that the US regime is unique in the sense where all criteria under both the salary and duty requirements for executive, administrative and professional employees must be met to be qualified for exemptions. For example, an executive will be exempted from the provisions on overtime pay under the FLSA if both sets of criteria below have been met:

(a) Salary requirements -

- Weekly salary not less than US$455 (HK$3,549); and

(b) Duty requirements -

- The employee's primary duty must be managing the enterprise or managing a customarily recognised department or subdivision of the enterprise;
- The employee must customarily and regularly direct the work of at least two or more other full-time employees or their equivalent; and
- The employee must have the authority to hire or fire other employees, or the employee's suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees must be given particular weight.

By Industry or Sector

5.44 Sometimes, the entire industries may be exempted from a working hours regime. For example, agriculture, livestock rearing and fishery industries are exempted in Japan and Korea. Certain industries requiring higher operational flexibilities may also be exempted from the overtime limits. For example, in Korea, certain sectors such as transportation, finance and insurance, movie production and entertainment, medical and sanitation, hotel and restaurant, etc. are

allowed to work in excess of 12 hours' weekly overtime limits[68].

By Size or Sales Volume of Company

Korea

5.45 In Korea, most of the provisions on working hours do not apply to businesses or workplaces which ordinarily employ four employees or less[69].

The US

5.46 In the US, an employee is protected under the FLSA for overtime pay through either enterprise coverage or individual coverage[70]. Enterprise coverage applies, among others, to employees who work for enterprises with annual sales or business of at least US$500,000 (HK$3,900,000).

Other Exceptional Circumstances

5.47 Daily or weekly hours limit may be waived or extended under special circumstances not classified according to the above criteria (with permission from the authorities in some regimes). These situations may include:

(a) emergency work arising from natural disaster and the need to perform urgent public work (e.g. Singapore, Japan and the Mainland);

(b) emergency work related to accidents (e.g. Singapore, the EU, the UK, Belgium and Canada);

(c) urgent work on machinery or equipment (e.g. Singapore, Belgium and Canada);

---

[68] Depending on the sources of statistics, as at 2008, around 55-61% of companies and 38-42% of employees were exempted from the overtime limit provisions. The figures were obtained from a Korean research institute during our study mission.

[69] Only the provisions pertaining to, among others, recess hours, holidays (i.e. weekly rest day) and working hours for females and minors are applicable to a business or workplace which ordinarily employs four workers or less.

[70] Individual coverage applies to individuals whose work involves interstate commerce regularly. Examples of work that involve interstate commerce are production of goods that will be exported to another state, making calls to persons outside the state, and janitorial work for a building that produces goods for exports to another state.

(d) unforeseen or unpreventable circumstances (e.g. Singapore, Japan, Macao, the EU, the UK, Belgium and Canada);

(e) great loss faced by the employer (e.g. Macao); and

(f) unpredictable increase in amount of work (e.g. Macao and Belgium).

5.48 Most of the above situations are also covered by ILC No. 30, such as cases of accidents (actual or threatened), force majeure, urgent work on machinery or plant, abnormal pressure of work due to special circumstances, etc. Other circumstances may include work to prevent the loss of perishable goods, special work such as stocktaking, the preparation of balance sheets, settlement days, liquidations, and the balancing and closing of accounts, etc. Employees may be required to work additional hours for the above circumstances.

Comments

5.49 As illustrated above, the exemption arrangements adopted by various regimes are quite diverse in terms of their level and scope. This reflects that the socio-economic, political, or even cultural factors of an individual regime may play a role in determining the relevant arrangements. Nonetheless, exemption "by occupation or job responsibility" is the most common form of all exemptions among the economies under study. While this measure takes into account the specific work nature of the relevant occupation or job, which could be vital for the sectors concerned, there are also arguments that such exemptions have denied some employees, who indeed are the ones most vulnerable, the protection against very long working hours. In any case, exemption is a highly important issue in a working hours regime and all working hours regimes we have studied offer some kind of exemptions to address practical business concerns.

5.50 Also, exemption arrangements appear to be "economy-specific", thus thorough discussion among different stakeholders is essential for achieving consensus on the scope of exemptions required.

Flexibility Arrangements

5.51 All working hours regimes covered in this study incorporate some kind of flexibility arrangements to allow for variations in daily and weekly hours of work. However, the coverage and extent of these flexibility measures vary among different regimes.

Reference Period

5.52 At one end of the spectrum, some regimes adopt a simple "reference period" [71] across the board to allow working hours to be averaged over a certain period of time. If the averaged weekly working hours within the period do not exceed the statutory limit, overtime pay is normally not required.

5.53 To take Singapore as an example, its working hours legislation allows employers to comply with its 44-hour working week by averaging over a reference period of two weeks as long as the working time in neither of the two weeks exceeds 48 hours. In the UK, the 48-hour week can be averaged over 17 weeks. In Japan, the 40-hour weekly limit can be averaged over a reference period of up to one year. Adoption of reference period is the most common form of flexibility arrangements for the regimes under study.

Working Hours Systems

5.54 Some regimes have not only adopted reference period, but also incorporated various working hours systems to cater for the specific needs of certain industries or occupations. While details of working hours systems of economies examined can be found at **Appendices 2.1 to 2.12**, a few examples are tabulated below for easy reference (**Table 5.2**):

[71] In the regimes we studied, a reference period can range from two weeks to one year. It may be applicable to all sectors covered by the law or there may be different sets of reference period for different industries. The rationale is that the average weekly working hours during the reference period should comply with the statutory weekly limit, which is derived by dividing the total number of hours worked in the reference period (subject to other conditions such as taking into account the period of paid leave taken) by the number of weeks in that period.

Table 5.2: Selected Examples of Working Hours Systems in Different Economies

Regime	Weekly Hours Limit (Daily Hours Limit)	Averaging Arrangements
Taiwan	84 hours in 2 weeks (8 hours)	*8-week Flexitime System* ● For specified businesses, with prior consent of the labour union (or the agreement of a labour-management conference if there is no such union), an employer may distribute the total regular working hours of 8-week (336 hours) over that period, provided that the working hours for each day and week do not exceed 8 and 48 respectively.
Japan	40 hours (8 hours)	*Atypical Adjustable Working Hours System for a Week* ● Provided that employees' working hours do not exceed 40 hours per week, employers may have the employees work up to 10 hours per day without having to give overtime pay. ● This system is limited to retail businesses, hotels, restaurants, and eating and drinking places with less than 30 regular employees. *Deemed Working Hours System for Work outside of the Workplace* ● In cases where employees perform their work outside their workplace during all or part of the working hours, the detailed instruction and supervision by the employer are not

Regime	Weekly Hours Limit (Daily Hours Limit)	Averaging Arrangements
		involved and it is difficult to calculate working hours, the number of hours actually worked is deemed to be the scheduled (i.e. contractual) working hours.
Korea	40 hours (8 hours)	*Discretionary Working Hours System – Worker's discretion at work* ● Applies to jobs that require employees' specific expertise or professional skills (the nature of which necessitates employer to authorise employee to determine how work is performed). ● By written agreement, working hours chosen by the employee is deemed to be hours actually worked. *Discretionary Working Hours System – Work outside the Workplace* ● Applies to jobs which are difficult to calculate the actual number of hours worked as the employees work outside the workplace for part or all of the working hours. ● The hours actually worked can be deemed as: (a) the contractual working hours; (b) the hours ordinarily required to complete the work concerned (when an employee is required to work in excess of contractual hours to complete the task); or (c) the hours agreed upon in writing by the employer and the employee concerned.

5.55 In essence, working hours systems may take any or all of the following forms:

(a) different sets of reference period for different circumstances (e.g. Korea, Japan and Taiwan);

(b) different sets of daily/weekly limits for specific industrial sectors, occupations or job nature (e.g. Japan); or

(c) special measures tailor-made for jobs of which the actual working hours cannot be ascertained (e.g. Korea and Japan).

Opt-out

5.56 At the other end of the spectrum, a regime may allow employees to opt-out from the statutory working hours limit so that they can work longer hours if they so wish (e.g. the UK). In this case, the employee must give prior consent and written agreement is often required.

Evaluation of Each Flexibility Arrangement

Reference Period

5.57 Experience in other places shows that flexibility in the distribution of working hours over time is considered important, especially for those sectors subject to seasonal fluctuations of work. Averaging measures are generally welcome by employers as they can better adapt to variations in consumer demand and seasonal cycles. For example, the employers' association representing SMEs in the EU prefers reference period to be extended to as long as one year by default[72]. However, some employees are concerned that their overall overtime pay during the reference period may be reduced owing to the averaging arrangements. Depending on the design of the regime and whether prior notification and consent is required, averaging arrangements may also benefit employees because, during the low season of their companies' businesses, they are not obliged to work up to the weekly limit. They may use the time saved for rest or other personal pursuits.

[72] Currently, the WTD allows averaging of 48-hour weekly limit over 12 months only by collective agreements.

Working Hours Systems

5.58 Korea, Japan and Taiwan have introduced very comprehensive working hours systems in response to the needs of specific industries, occupations or job nature (Please refer to **Appendices 2.2, 2.3 and 2.6** for details). Employers adopting such systems are generally required to follow administrative procedures prescribed by law and/or seek prior approval from the concerned authorities. The pros and cons of introducing such systems from employers' and employees' perspectives are set out below (**Tables 5.3** and **5.4**)[73]:

Table 5.3: Pros and Cons of Working Hours Systems for Employers

Pros	Cons
● Improvement in competitiveness and performance.	● Managerial control over working hours is limited to designated industries/ occupations.
● Matching hours more closely with production or service requirements.	● Can involve complicated administrative procedures, requiring additional manpower and associated costs.
● Reducing costs, particularly savings on overtime pay.	● Adverse sentiment from employees during implementation (e.g. some employees may initially resist certain forms of working time flexibility).

[73] In compiling these tables, we have drawn reference to various information sheets published by the Conditions of Work and Employment Branch of the International Labour Office. See ILO's website: http://www.ilo.org/travail/areasofwork/working-time-and-work-organization/facet/lang--en/index.htm?facetcriteria=TYP=Publication&facetdynlist=WCMS_170814

Table 5.4: Pros and Cons of Working Hours Systems for Employees

Pros	Cons
● Reduction in working time.	● May reduce total earnings if employers no longer request overtime.
● A better balance between work, family and private life.	● Loss of control over the amount of hours that could be worked in a given duration.
● Greater scope for employees' influence over the organisation of working hours through consultation with the employers.	● Irregular working hours.
● Easier to arrange for other personal activities, e.g. continuous education and training, or taking care of children.	● Employer may give short notice periods for changes in work schedules and varying workloads.

5.59 In designing the flexibility measures, we should caution against a complicated system. Sometimes, working hours systems may be so attentive to the needs of specific sectors that they end up with too many administrative procedures and technicalities. This may lead to low adoption rate by employers and defeat the purpose of developing tailor-made systems.

Opt-out

5.60 Opt-out provisions are given in the EU's WTD. The EU Member States have the option of not applying 48-hour maximum weekly limits subject to certain conditions as mentioned in **Appendix 2.8**. The UK was the first EU Member State to allow opt-out in all sectors of the country, and many other Member States followed suit especially after the several landmark court cases (e.g. *SIMAP* and *Jaeger* cases on definition of working time). Not all these Member States apply the opt-out to their entire workforce. Some Member States confine it in

specific sectors or jobs (e.g. Belgium).

5.61 Opt-out is a highly controversial subject at the EU level. Different views expressed by various EU stakeholders about opt-out are listed in **Table 5.5**:

Table 5.5: Reasons for and against Opt-out

For	Against
● Business can maintain workforce flexibility which is conducive to long-term sustainability.	● Allowing opt-out is considered as taking away the protection afforded to employees.
● Employees will have the right and flexibility to choose when they want to work more to increase their income.	● As the key objective of working time regulation is to protect employees' safety and health, it should not be a matter of individual choice. Employees' right to work long hours should be limited by their duty to work safely.
● Employees can have better control of their own work-life balance.	● Abuse of opt-out would pose a heavy risk of accident in certain industries, e.g. transport.

5.62 Implementation experience in the EU Member States reveals that opt-out is most common in sectors providing round-the-clock service and involving "on-call" duty ("on-call" time is counted as working time). However, trade unions in the EU are demanding the removal of all opt-out provisions in the WTD, while the employer organisations insist that opt-out should be retained. The negotiation is still ongoing.

Comments

5.63 Flexibility arrangements are a fundamental component in all working hours regimes studied which cater for the very diverse operational needs of different industries and occupations. However, with the ever and rapidly changing social, economic and technological environments, it is a highly challenging task to determine the level of flexibility appropriate for a particular economy. A tight regime with limited flexibility measures may stifle business' operations, whereas a loose regime may raise questions of whether employees are afforded adequate protection. In the context of Hong Kong, in-depth discussion among stakeholders in the light of our unique socio-economic circumstances is essential in determining the suitable flexibility arrangements should SWH be contemplated.

CHAPTER 6

IMPLEMENTATION EXPERIENCE IN OTHER PLACES

6.1 As set out in Chapters 4 to 5, a working hours regime entails not simply fixing daily or weekly working hours limits or overtime pay rate; its formulation also involves other considerations, such as agreeing on the policy objectives, making impact assessment, setting necessary exemptions and flexibility arrangements, etc.

6.2 Even so, the successful design of a working hours regime is only the first of many steps towards achieving an effective working hours regulation. Indeed, we have learnt from the experience in other places that many important issues would only come to light during the later stages of consensus building and implementation. In Chapters 6 to 7, we will cover the challenges commonly faced by other regimes in implementing working hours regulations. The issues dealt with in this Chapter are set out in details below, namely:

(a) a politicised and lengthy process of consensus building;

(b) disputes over key legal definitions;

(c) challenge in balancing employees' benefits against public service and business' flexibility;

(d) possible wage reduction resulting from shorter working hours; and

(e) enforcement challenges.

A Politicised and Lengthy Process of Consensus Building

6.3 Some economies covered in our study have undergone a highly politicised or lengthy process in reaching consensus on their initial and subsequent amendments to their working hours legislation. Experience in other places also reveals that the polarised views of different stakeholders often led to negotiation deadlock which impeded prompt legislation and implementation. It is therefore essential for all stakeholders to have the patience, as well as the commitment and willingness to narrow their differences in order to agree on the way

forward.

Korea

6.4 To speed up the country's recovery from the 1997 Asian Financial Crisis, the Korean Economic and Social Development Commission (ESDC) comprising representatives from the government, management, labour and public interest groups, was established in January 1998 to "carry out fundamental structural reform to make [the] economy more transparent, open and market-oriented"[74]. The "Special Committee on Reduction of Working Hours" set up in May 2000 under the ESDC subsequently agreed, among other things, that the total annual working hours should be reduced from around 2 500 hours then to less than 2 000. To achieve this overall principle, the Korean Government submitted an amendment bill to the National Assembly to reduce weekly working hours from 44 to 40 under the Labour Standards Act (the Korean LSA).

6.5 Although the principle of further reducing working hours was agreed upon, the Committee subsequently failed to reach consensus on the details of implementation owing to the sharply divided views of employees' and employers' representatives. While the major trade unions in Korea demanded a 40-hour work week without reduction in wages, the employers' representatives expressed grave concern that the proposal would significantly increase labour cost and weaken the global competitiveness of Korean businesses. In spite of the deadlock and lack of consensus between employers and employees, the Government submitted the amendment bill to the National Assembly and had it approved in August 2003 amid fierce opposition from the trade unions because certain labour benefits were cut to gain the support of the employers.

6.6 Although the reduction of SWH from 44 to 40 hours per week was finally implemented in phases in Korea from 2004, the society suffered tense labour relations and certain employees' existing benefits were traded off (e.g. abolition of the original one-day paid leave per month

[74] The ESDC (formerly called "The Korea Tripartite Commission") is a presidential advisory body for the purpose of overcoming the economic crisis in late 1997. See ESDC's website (http://www.lmg.go.kr/eng/about/about01.asp) and the "Social Pact to Overcome the Economic Crisis", p.1 (http://www.lmg.go.kr/eng/file_down/Social%20Pact%20to%20Overcome%20the%20Economic%20Crisis.pdf).

and change of the one-day menstruation leave per month from paid to unpaid) to ensure the passage of the legislation.

Macao

6.7 Prior to the handover of Macao in 1999, the Macao Government proposed to amend Decree-Law No. 24/89/M in areas including rest period, and to introduce new provisions on exemption of certain employees, overtime pay, shift work and night work, etc. A report was submitted to the Standing Committee for the Coordination of Social Affairs (the Standing Committee)[75] in December 2000 for discussion.

6.8 However, it eventually took 10 years for the amendments to be passed. For instance, the Macao Government was only able to submit the bill to the Legislative Assembly in 2007 upon consensus reached in the Standing Committee and subsequent deliberation by the Executive Council. The Third Standing Committee of the Legislative Assembly (the Legislative Assembly Committee)[76] held 51 meetings from June 2007 to July 2008. Another 11 working meetings were held from March to July 2008 between representatives of the Legislative Assembly Committee and the Government. In view of the issue's complexity and controversy, the Legislative Assembly Committee had to apply for postponement of discussion at the Assembly four times owing to increase in the articles of the bill from 57 to 97. The bill was finally passed in 2008 and the Labour Relations Law became effective on 1 January 2009[77]. The lengthy discussion was due to the divergent views of employees and employers over some key issues such as overtime pay rate, regulation of night work and shift work, etc.

---

[75] The Standing Committee is a tripartite consultative body on social and labour policies.

[76] In accordance with the Rules of Procedure of the Legislative Assembly, the present Legislative Assembly consists of one Regiment and Mandate Committee and three Standing Committees, members of each committee are elected by and among the Members of the Legislative Assembly.

[77] Examples of amendments included specifying definition of normal working hours, new provisions on minimum daily rest period and compensatory rest, overtime pay rate, night work and shift work, etc.

The EU

6.9 Council Directive 93/104/EC (Council Directive)[78] adopted in 1993 required the European Commission to report on its operation after a 10-year period had elapsed. During the decade, there were major social and economic developments which fundamentally affected the operation of the WTD (e.g. technological advances, globalisation and more diverse workforce) along with substantial impact of the ECJ's rulings on the implementation of the WTD (as discussed in paragraphs 5.6 to 5.10). These constituted the background against which the European Commission put forward a proposal in 2004 to amend the WTD following wide consultation of the European "social partners", which included both employers' organisations and trade unions[79].

6.10 Between 2004 and 2009, there were extensive consultation and debates on the review of the WTD at the EU level. Though there was broad consensus among the European "social partners" that the WTD needed a major revamp, there were strong disagreements between them on the areas and direction of amendments. While employers demanded greater working time flexibility to facilitate business development, employees considered that new measures should be introduced to further strengthen protection for workers.

6.11 Despite a long negotiation and conciliation process, the Council of the EU[80] and the European Parliament had to conclude in April 2009 that they failed to reach an agreement on the proposed amendments to the WTD. Thus, the European Commission launched a new review of the WTD based on a full scale consultation of the European "social partners" and a detailed impact assessment. Having conducted the first

---

78 It is the first Directive on working time in the EU and was amended in 2000 by Directive 2000/34/EC and the two were consolidated into Directive 2003/88/EC (i.e. the WTD).

79 The European "social partners" (employers' organisations and trade unions) are the central actors in the collective industrial relations scene at the EU level. They are very influential in the sense that they can enter into negotiations among themselves to reach agreement with legally binding effects (the framework agreements reached may even be transformed into labour law). The major employers' organisations at the EU level are Confederation of European Business (formerly the Union of Industrial and Employers' Confederations of Europe – UNICE), the European Centre of Employers and Enterprises providing Public Services and European Association of Craft, Small and Medium-Sized Enterprises. The most important organisation representing employees in the EU is the European Trade Union Confederation.

80 The Council of the EU is the EU institution where the Member States' government representatives sit, i.e. the ministers of each Member State with responsibility for a given area. In most cases, the Council can only legislate the EU's laws based on proposals submitted by the European Commission.

and second-stage consultations in 2009 and 2010 respectively, the "social partners" finally agreed to enter into a new round of negotiation with a view to concluding an agreement and transposing the agreed terms as the new Directive[81]. The first and second negotiation meetings of the "social partners" were conducted in December 2011 and February 2012 respectively. Although some progress was made after more than six years, the "social partners" realised that there are still many hurdles to overcome before the issue can be resolved eventually.

The UK

6.12 In the UK, working hours are regulated by the Working Time Regulations (WTR) emanated from the EU's WTD. For details of the WTR, please refer to **Appendix 2.9**. Under the WTD, all EU Member States, including the UK, were required to implement the main provisions of the WTD in their national laws by November 1996. At the time, there was no specific legislation regulating working time in the UK. However, the terms of the WTD were in conflict with the traditional approach of labour relations in the UK, i.e. allowing patterns of work including working time to be negotiated by employers and employees. The Conservative Government at the time, which adhered to the deregulatory philosophy, also believed that the WTD was against this philosophy and would impact adversely on the country's competitiveness and employment. Thus, the UK Government challenged the legal basis of the WTD before the ECJ[82] in 1994. It argued, among other things, that the WTD was not a safety and health

[81] Under relevant provisions of the Treaty on the Functioning of the EU (TFEU), the "social partners" enjoy autonomy as regards the content and structure of their discussions, and have nine months to reach agreement. If they reach an agreement, they are entitled under the TFEU to ask for its implementation as a Directive. The European Commission would then present the "social partners"' agreement to the Council of the EU in the form of a Directive. Under the TFEU, the Council of the EU may either adopt it, or reject it, by qualified majority, but may not amend it. The Parliament is informed, but is not a co-legislator. Out of respect for the autonomy of the "social partners", the European Commission will not put forward a legislative proposal on the issues covered by their talks. In the event that the "social partners" do not reach an agreement, the European Commission would then come forward as promised with a legislative proposal, based on its consultation and impact assessment work.

[82] The WTD was adopted as a health and safety measure under the then Article 118a(1) [now Article 137] of the Treaty Establishing the European Community (EC Treaty) which only allowed adoption by "qualified majority voting" which meant that it would be passed despite the UK's opposition. Thus, the UK argued that the WTD should be a social policy measure under the then Article 100 [now Article 94] of the EC Treaty requiring unanimous approval. In this case, the UK would be able to veto the WTD.

measure[83]. However, the UK Government's claim was denied by the ECJ in 1996. But following the Labour Party's victory[84] in the 1997 election, the WTR were speedily drafted amidst a short, three-month consultation and came into force in October 1998. Unfortunately, this hasty approach resulted in many legal uncertainties which necessitated numerous subsequent amendments[85].

6.13 For instance, the previous statutory requirement for employers to record the number of hours of working time worked by each opted-out worker was considered onerous by employers and was amended in 1999[86]. Employers now only have to keep a record of those opted-out workers such as opt-out agreement rather than having to maintain daily working hours record. Also, the WTR used to allow a worker whose working time is partly unmeasured or determined by the worker himself to be exempted from the 48-hour working week and the maximum working hours for night work. The relevant provision pertaining to "partially unmeasured working time" was repealed in 2006 against the background of infraction proceedings brought by the European Commission against the UK[87]. The amendment has brought "many workers unequivocally under the WTR's protection in relation to all their work"[88]. This demonstrates the importance of having detailed and careful deliberation among stakeholders on the categories of workers to be exempted and the

---

83 The WTD was adopted on the basis of the then Article 118a(1) [now Article 137] of the EC Treaty, which provides that "Member States shall pay particular attention to encouraging improvements, especially in the working environment, as regards the health and safety of workers, and shall set as their objective the harmonisation of conditions in this area, while maintaining the improvements made." The UK Government argued that the measures in the WTD concerning weekly working time, paid annual leave and rest periods had no genuine and objective link to health and safety of workers. However, the ECJ ruled against the arguments of the UK Government.

84 The Labour Government adopted a new approach to labour policy in the UK which involved setting minimum standards of worker rights in different areas of the employment relationship.

85 Subsequent amendments included, among others, the Working Time Regulations 1999 (amending regulations), the Working Time (Amendment) Regulations 2001, the Working Time (Amendment) Regulations 2002, the Working Time (Amendment) Regulations 2003, the Working Time (Amendment) Regulations 2006, the Working Time (Amendment) Regulations 2009, and the Working Time (Amendment) (No. 2) Regulations 2009.

86 McMullen and Brewer (2001), p. 90.

87 The EU's WTD allows derogation of the so-called "autonomous workers" from the 48-hour weekly limit. However, the European Commission considered that those workers working "partially unmeasured time" in the UK should be not regarded as "autonomous" and hence should not be deprived of the 48-hour working week protection. The infraction proceedings were invoked because the UK Government did not properly implement the WTD in this respect.

88 McLynn (2009), p. vi.

legal obligation imposed on employers, among others, in considering whether there should be an SWH regime.

Belgium

6.14 Belgium is a country with a long history of working hours regulations and high standard even by European standards. Nevertheless, since weekly working hours was reduced from 48 hours to 40 hours in 1936, it took another 70 years to further reduce the limit in phases to 38 hours in 2003. This is another example demonstrating the complexity of working time issues and the lengthy negotiation and bargaining process required for consensus building.

Comments

6.15 As mentioned in paragraph 3.19, ILO's *Reduction of Hours of Work Recommendation, 1962 (R 116)* has rightly pointed out that Member States should take into account the following factors in pursuing reduction in working hours (and in particular the goal of 40-hour week): (a) the level of economic development and the extent to which working hours may be reduced without reducing total productivity, endangering its economic growth, weakening its competitiveness and creating inflationary pressure; (b) the progress achieved in raising productivity by the application of modern technology, automation and management techniques; (c) the need for improving the people's living standards in the case of countries still in the development process; and (d) the preferences of employers' and workers' organisations as to how working hours might be reduced.

6.16 In line with paragraph 6.15(d) above, in designing and implementing a working hours policy, different economies (regardless of their level of economic development, social and cultural background) went through the stage of in-depth discussion and consensus building among stakeholders. Given the contrasting opinions, such consensus building process is usually lengthy – taking 5 years for some and 10 years for others – and requires mutual understanding and compromises on the part of the various parties involved. That said, such a process is indispensable for designing a solid framework of working hours policy, without which arguments may persist post-legislation and undermine

implementation.

Disputes over Key Legal Definitions

6.17 As discussed in Chapter 5, having clear and mutually agreeable definition for key concepts will enhance smooth implementation and facilitate better compliance of working hours requirements by the employers. Even so, as the EU experience has shown, there could still be controversial questions that have to be settled by court rulings. In the US, disputes between employers and employees on exemption criteria under the working hours regime have also resulted in an upsurge in labour lawsuits. It is therefore prudent for us to better understand how the regimes in other places handle such disputes and the magnitude of the impact that these disputes could cause.

The EU

The *SIMAP* Case

6.18 The *SIMAP* case in 2000 is one of the most important rulings made by the ECJ regarding working time at the EU level. The Council Directive defines working time as any period during which a worker is working, at the employer's disposal and carrying out his activity or duties, in accordance with national laws and/or practice.

6.19 The ECJ ruled in the *SIMAP* case that time spent "on-call" by doctors in primary health care teams, where they are required to be physically present in the health centre, must be regarded in its entirety as working time irrespective of the work actually performed by the persons concerned.

6.20 In the *SIMAP* case, the ECJ took into account, among other considerations, the objective of the Council Directive which is to ensure the safety and health of workers. Therefore, to exclude duty "on-call" from "working time" which, if physical presence is required within the meaning of Council Directive, would seriously undermine that objective.

The *Jaeger* Case

6.21 Similar to the *SIMAP* case, the ECJ ruled in the *Jaeger* case in 2003 that time spent by a doctor working on an "on-call" basis in a hospital constitutes working time in its entirety, even if the employer provides a place of rest for the employee to use when not actively engaged in his duties. The ECJ considered that doctors "on-call" are required to be present at the place determined by the employer and to be available to the employer in order to be able to provide their services immediately in case of need. These obligations make it impossible for the doctors concerned to choose the place where they stay during waiting periods and therefore must be regarded as coming within the ambit of their duties[89].

6.22 In implementing the WTD[90], the EU Member States are legally obliged to adopt the concept of working time as ruled in the above two cases. However, this has brought compliance difficulties in view of the profound financial and human resource implications to the businesses particularly those sectors providing public service involving "on-call" time. Despite the common understanding among the EU stakeholders and the concerted efforts made to comply with the ECJ's rulings on "on-call" time, the issue remains unresolved as of today.

The US

6.23 The FLSA, being the major federal legislation governing working hours in the US, exempted administrative and executive employees and professionals from the entitlement of overtime pay and minimum wage. These exemptions were made because executives and professionals normally earned salaries well above the minimum wage level, and they were presumed to enjoy other compensatory privileges such as job security and better opportunities for advancement[91].

---

89 Website of Eurofound, ECJ rules that "on-call" working is working time: http://www.eurofound.europa.eu/eiro/2003/10/inbrief/eu0310202n.htm

90 The Council Directive 93/104/EC was amended in 2000 by Directive 2000/34/EC and the two have been consolidated into Directive 2003/88/EC (i.e. the WTD).

91 *Report of the Minimum Wage Study Commission*, Volume IV, Department of Labour of the US, 1981.

6.24 The FLSA does not define the terms "executive", "administrative" or "professional". Pursuant to the Congress's grant of rulemaking authority, the Secretary of Labour was delegated the power to define and delimit the specific terms of the exemptions through the Code of Federal Regulations. For example, with effect from 2004, employees are required to pass the following "new test"[92] to be classified as "executive":

Salary

- Minimum salary of US$455 (HK$3,549) per week[93]; and

Duties

- Customarily and regularly supervise at least two employees;
- Primary duty is to manage an enterprise or department or subdivision thereof; and
- Authority to hire or fire employees, or have "particular weight" given to the recommendation of changes of employees' status (e.g. promotion).

6.25 The "new test" as amended in 2004 was intended to "protect more employees from being misclassified and reduce the likelihood of litigation over employee classifications because both employees and employers will be better able to understand and follow the regulations"[94]. However, there are views that the definitions are not crystal clear and the test for exemption requires case-by-case analysis, which makes it very difficult for employers to comply with the rule on the one hand and for effective enforcement on the other.

6.26 Some employers also complained that the discretion and independent judgement requirements for administrative and professional employees were confusing and applied inconsistently by government investigators in classifying similarly situated employees. In fact, the number of wage and hour lawsuits has increased. According to the

[92] Originally, the exemption criteria for employees were different depending on their salary. Take executives as an example: those paid above the higher salary rate (minimum salary of US$250 [HK$1,950] per week) were exempted if they passed a less stringent duty test (the "short" test); those paid between the higher and lower salary rates (minimum salary of US$155 [HK$1,209] per week) must meet a more detailed "long" duty test. The duty test for executives as amended in 2004 was similar to the "long" duty test with some adjustments.

[93] US$23,660 (HK$184,548) per year.

[94] Federal Register, the US (2004).

Administrative Office of the US Courts, 6 761 wage and hour lawsuits were filed in 2010 which represented a 67% increase from 2005. Some large corporations faced overtime lawsuits from their professional, administrative or sales staff involving substantial amount of money. While some corporations reached settlement with employees, others are still undergoing legal procedures.

Japan

6.27 The Japanese LSA provides for working hours exemption for employees at supervisor and manager levels. As a result, although a considerable number of employees in Japan are classified as holding managerial positions by their companies, in reality the job nature of these employees (i.e. so-called "nominal management"[95]) is little different from that of other basic workers. According to a report in 2004, there was an increasing number of employees being treated as "managers", and hence excluded from overtime pay[96]. In response, the Japanese authority issued administrative notifications on the criteria of "supervisors and managers" with a rather limited scope to mean "a department head, foreman, or other such person, who works in an integrated position with that of the proprietor regarding decisions on working conditions and other aspects of labour management, and whether a person falls under the category should be judged according to actual conditions, irrespective of his title"[97]. However, there were still court cases concerning the dispute of nominal management. For instance, the court has ruled that "managers" of a fast food corporation and a discount chain store did not fall under the category of a supervisor or manager under the Japanese LSA. As each case should be considered on its own merits, businesses may have difficulty in deciding the type of employees who are legally permissible to be treated as "supervisors and managers". This uncertainty is not conducive to effective business management and amicable labour relations.

[95] Ogura (2010a).

[96] North and Weathers (2006).

[97] Ouchi (2010).

Comments

6.28 A clear legal definition of "working hours" is not only vitally necessary for minimising labour disputes for any working hours regime, but also facilitates easier record keeping by employers and lowers the compliance cost. Nonetheless, any definition, however well thought-out, may still be subject to challenge and has to be resolved at court level. In particular, for "administrative, executive and professional" employees who are often exempted from working hours legislation, it is difficult to clearly define who really belongs to this category and any ambiguity can easily lead to heated disputes. Against this background, certain key concepts under an SWH regime must be carefully studied, clearly defined and agreed between the stakeholders, without which the implementation will certainly be hindered and fraught with problems.

Employees Benefits vs Public Service and Business Flexibility

6.29 We have discussed in Chapter 5 a number of varied exemptions and flexibility arrangements in working hours regimes studied. Indeed, experience in other places indicates that it is common to exempt employees or allow derogations from certain working hours provisions having regard to specific job responsibilities or circumstances, etc. A suitable degree of flexibility is essential in any working hours regimes considering the diverse work patterns and specific operational needs of different enterprises or industries. However, we should also be mindful of the possible impact of these exemptions and flexibility arrangements on employees. To ensure protection of employees, the scope of exemptions should only be confined to those whose job nature or circumstances etc. warrant such exemptions. Please refer to paragraphs 5.35 to 5.63 for the background of these arrangements.

The EU

6.30 The EU's WTD emphasises that "improvement of workers' safety, hygiene and health at work is an objective which should not be subordinated to purely economic considerations". Despite this objective, the WTD also allows exemptions of those workers whose duration of working time is not measured and/or predetermined and those who can determine their own working time. These so-called

"autonomous workers" include managing executives or other persons with autonomous decision-taking powers, family workers and workers officiating at religious ceremonies in churches and religious communities. It demonstrates that any economy contemplating working hours regulation needs to consider the appropriate level of exemptions which best fits its unique circumstances.

6.31 As for flexibility arrangements, one prime concern of employees is whether such arrangements will affect their earnings. For example, employers and employees often have diverse views on the length of reference period. While employers prefer a longer reference period to cater for seasonal fluctuations, employees especially those who regularly rely on overtime pay as part of their income package are concerned that their income level would be adversely affected under a longer reference period. Details are given in paragraph 5.57.

Korea

6.32 In Korea, the Flexible Working Hours System allows weekly working hours to be averaged over a 2-week (for those covered by rules of employment) or 3-month period (for those covered by labour-management agreement)[98]. As long as the average weekly working hours over the reference period do not exceed 40 hours, overtime pay is not required. The Korean Government is planning to amend the Korean LSA to extend the reference period under the Flexible Working Hours System from 2-week to 1-month, and from 3-month to 1-year. It is expected that the trade unions will express grave concern over the proposed change of reference period. Currently, the adoption rate of the existing system is already low partly because of trade unions' concern over employees receiving less overtime pay. Korea's experience demonstrates the need to strike a balance between offering flexibility to enterprises and considering employees' concern over their wage level.

The UK

6.33 In the UK, employees are allowed to opt-out from the 48-hour weekly limit by signing a written agreement. Indeed, opt-out is a highly

[98] Please refer to **Appendix 2.2** for details.

controversial subject not only at the national but also at the EU level (see paragraphs 5.60 to 5.62 for details). In view of the current global economic climate, the UK Government considers that its priority should be to create an environment to facilitate business development through deregulation policy. Hence, further limitation of working hours is considered not in line with this top policy priority. The UK Government maintains that opt-out is highly important and should not be abolished from the WTD.

6.34 In principle, opt-out allows employees the freedom to choose the working hours they consider suitable to their lifestyle and their opportunity to earn higher income will not be affected. Considering that there is virtually no working hours limitation for those employees who have opted out, trade unions are concerned that employees' safety and health would be put at risk and thus opt-out should not be allowed.

6.35 On the other hand, opt-out allows enterprises to have optimal operational flexibility when their employees agree not to subject themselves to the 48-hour weekly limit. Nevertheless, all the important considerations such as business flexibility, employees' freedom to choose how long they work and in turn their income level as well as their safety and health need to be weighed and balanced. At one point, a consensus needs to be reached or the heated debate will go on as demonstrated by the EU experience.

Comments

6.36 Different economies have incorporated different kinds of exemptions and flexibility arrangements into their working hours regimes to cater for their own needs having regard to their individual circumstances. As there is no one-size-fits-all solution to this complex issue, it is important that we take into account our socio-economic conditions in considering the level and kinds of exemptions and flexibility arrangements to be adopted in the local context should SWH be contemplated. We also cannot ignore the need to provide essential services, the importance of business flexibility (for both big and small businesses) in maintaining our competitive edge and the sentiment as wells as rights and benefits of employees.

Possible Wage Reduction Resulting from Shorter Working Hours

6.37 In contemplating working hours policy, careful consideration must be given to the possibility of wage shrinkage, particularly for those low-skilled workers in elementary occupations, as a result of working hours reduction. Since employers are concerned about the increased labour cost as a result of the legal requirement to pay overtime premium, they may no longer require employees to work overtime but instead go for other means such as employing part-time workers to do the job, etc. As a result, those workers who are on hourly rate may find themselves working shorter hours and hence receiving lower income than before. For any successful SWH policy, it is crucial that the conflicting interests of both the employers and employees be properly addressed in the first place. The experience in other places below illustrates the challenges faced by other regimes in tackling salary reduction owing to shorter working hours with a view to providing better protection to the employees.

Korea

6.38 As mentioned in paragraphs 6.4 to 6.6, when the Korean Government tried to reduce the weekly working hours from 44 to 40 in the early 2000s, there was a deadlock over overtime pay and holiday entitlements. The employees' representatives insisted that a 40-hour work week should be put in place without wage cut and deterioration of other working conditions. The employers' representatives, on the other hand, demanded that the number of paid holidays and overtime pay rate be reduced so as to control the increase in labour costs within an acceptable limit. This led to much labour discord and a series of major strikes staged by the Korean trade unions.

6.39 Although working hours eventually were reduced in phases from 2004 without wage cut, employees had to give up some of their previous benefits [99]. Therefore, according to Korea's experience, cutting working hours without compromising employees' benefit is a difficult

[99] Some examples of the trade-off are: (a) abolition of the original one-day paid leave per month; (b) change of the one-day menstruation leave per month from paid to unpaid and required prior request from the female employee; (c) employers are relieved from the obligation to compensate unused annual leave with money when employees fail to take leave upon repeated requests from employers; and (d) the overtime pay rate was reduced from 1.5 times to 1.25 times in the first three years when the 40-hour work week was implemented.

task. It requires mutual understanding between the employers and employees and determination of both sides to resolve their differences.

6.40 The challenges encountered (e.g. to reconcile the fundamental differences between employers and employees) are not limited to the legislative process. During implementation, businesses, especially SMEs, may also experience serious financial difficulties to comply with the statutory requirements to maintain employees' previous wage level. Businesses had to recruit additional staff to handle work demand but some lacked the financial resources to do so.

6.41 In Korea, low-paid workers are commonly found in micro-businesses with 10 or less employees. These workers tend to work long hours in return for better earnings. Although they are protected by law against any wage cut, some workers' income still suffered a cut. This is because some employers have resorted to recruiting part-time employees to avoid overtime pay. Trade unions in Korea also acknowledge that it is a great challenge to strike a balance between working hours reduction and wage preservation.

Belgium

6.42 In Belgium, employers were required to reduce working hours of employees without reduction in wages in the relevant wage period. A trade union pointed out that in order to reduce working hours while maintaining the same wage level in the relevant wage period, working time reduction through collective agreements (with terms better than the statutory limit) was achieved step-by-step over several years. For example, in the horticulture industry, the weekly working hours were gradually reduced one hour at a time in eight phases from 1970 to 2002[100]. This way, the increase in hourly/daily wages for each phase of working hours reduction would be milder. Belgium's experience demonstrates that a gradual process of working hours reduction would be helpful in minimising the impact of SWH on business operations as well as employees' salary.

[100] The reduction of weekly working hours in the horticulture industry was reduced gradually in phases as follows: 45 hours (March 1970); 44 hours (June 1970); 43 hours (January 1972); 42 hours (November 1973); 41 hours (December 1974); 40 hours (December 1975); 39 hours (January 1998); and 38 hours (October 2002).

Comments

6.43 In deliberating on the SWH issue in the local context, stakeholders must take note of the possible impact of working hours reduction on the overall wage packages and achieve a mutual understanding on how best to address the wage issue. The examples in paragraphs 10.32 to 10.45 illustrate how working hours regulation may affect employees' earnings[101]. These examples indicate that working hours regulation may lead to status quo, increase or reduction in employees' earnings, depending on the dynamic response of employers and employees as well as the prevailing economic and labour market situations. Therefore, in exploring whether there should be any working hours legislation in Hong Kong, caution must be exercised because of the possibility that some employees may end up with less take-home pay owing to shortened working hours, as well as more fragmentation of full-time work into part-time openings.

Enforcement Challenges

6.44 Unlike SMW which concerns only low-paid jobs, the coverage of any working hours regime is much wider and affects many more employees. As a result, effective enforcement of working hours legislation has all along been a very challenging and onerous task to any enforcement authority. Non-compliance mainly relates to non-payment of overtime and violation of overtime limit as well as violation of statutory weekly hours limits. However, given manpower constraints, governments in general adopt an "act on complaint" reactive approach in dealing with non-compliance issues.

Non-payment of Overtime and Violation of Overtime Limit

Japan and Korea

6.45 Non-payment of overtime is not uncommon in Japan. It is attributed to various reasons such as disputes over what constitutes overtime and manipulation of employment categories to exempt workers from

[101] These examples are based on hypothetical scenario with different assumptions that parameters such as wages, working hours, overtime pay rate and other contractual arrangements will be adjusted in accordance with the implementation of working hours policy.

overtime rules (such as the issue of nominal management[102] as discussed in paragraph 6.27), etc. To rectify the prevalent unpaid overtime problem, the Japanese Government strengthened its efforts from 2007 to 2010 to issue nationwide instructions to enterprises resulting in substantial amount of overtime pay given to workers. In 2009-10, a total of 1 221 companies were instructed to give back overtime pay to a total of 111 889 employees involving a total sum of ￥11.6 billion (HK$1.16 billion). The average overtime pay received by each employee amounted to ￥100,000 (HK$10,000).

6.46 In Korea, non-payment of overtime is also prevalent especially for white-collar workers. As these workers usually receive salary on a monthly basis and they often need to work overtime to complete the assigned tasks, calculation of overtime becomes a challenge. Also, it is difficult to define whether the overtime hours should be paid or not as the overtime work might be interpreted as workers staying behind to finish their work on their own volition rather than at the request of the employers.

6.47 Moreover, unpaid overtime is more commonly found in Korean SMEs. With the launching of 40-hour work week, SMEs with less manpower have to request employees to work overtime in order to cope with the work demand. The fact that SMEs' lack of financial resources may lead to employees working unpaid overtime.

6.48 On the other hand, employees sometimes encounter difficulties in recovering overtime pay owing to incomplete working hours records and disputes over whether they were staying after work for business duties assigned by the employers or other personal reasons. In fact, employers' associations of various places have pointed out the difficulties in dealing with the burdensome administrative work and the additional manpower required to maintain proper working hours records. This is particularly an issue for SMEs which usually have less management resources, employ more casual workers, or have higher staff mobility.

[102] Nominal management refers to the situation in which an employee is given the title of a manager and hence excluded from the coverage of working hours regulations, but he is actually not performing the function of a manager.

6.49 Since working time is a highly technical and complex issue, some business sectors in Japan and Korea also have difficulty in correctly interpreting the detailed legal provisions of the working hours systems which becomes an impediment for compliance.

Violation of Statutory Weekly Hours Limits

Korea

6.50 In Korea, a 40-hour work week was launched in 2004 in phases and was applicable to workplaces with 5 to 19 employees from July 2011[103]. However, the Korean Government found that some workplaces did not comply with the new requirement. As a result, the Government designated a "special period of intensive public reporting on violations of 40-hour work week" from August to October 2011.

6.51 During the 3-month inspection period, the Government provided recommendations and guidance to target businesses and conducted inspections to workplaces which have violated the 40-hour work week legal requirement (e.g. failing to adjust the length of working hours, reducing wages for shortened working time or forcing employees to do extra work during weekends). The Korean Government also operates the "40-hour work week counselling centre" to provide advice and consultancy services to SMEs to facilitate the full implementation of 40-hour work week.

The EU

6.52 The EU is also confronted with the problem of non-compliance. Indeed, applying one set of working time regulations to 27 Member States, given their varied social, economic and political backgrounds, is a highly challenging task. The European Commission, being the EU's executive body and tasked with the responsibility for making sure that the EU Member States abide by the European treaties and laws, faces great difficulties in ensuring the proper implementation of the WTD by Member States since the ECJ has passed the two important rulings

[103] There were about 2 million employees at some 300 000 workplaces falling within this category at the time. See KOILAF (2010a).

regarding "on-call" time in 2000 and 2003[104]. Specifically, more and more Member States found it difficult to comply with the 48-hour work week for sectors involving "on-call" duties. Thus, non-compliance was common. Despite having the power to invoke the infringement proceedings, it is practically impossible for the European Commission to do so in view of the prevalence of the problem. This is one of the reasons why the WTD is currently undergoing a review process and amendments are urgently required to resolve the dilemma.

Enforcement Actions

6.53 In the regimes we studied in general, enforcement of working hours legislation is usually taken upon receiving complaints from employees. Alternatively, inspections to target industries with higher likelihood of violations may be performed from time to time. As revealed in the experience of other places, it is virtually impossible for governments to proactively investigate all workplaces for the purpose of SWH without committing enormous resources.

Comments

6.54 The aforementioned experience in other places demonstrates the enforcement challenge in working hours regimes arising from the gap between the legislative requirements and the highly dynamic workplace operations. Having established working hours regimes for over 50 years, both Japan and Korea are still confronted with enforcement problems. This is an issue that should not be underestimated in considering any working hours policy. It is anticipated that effective SWH enforcement will require both a good design of the regime, as well as the allocation of necessary resources to enforcement agencies for carrying out inspection and promotional work.

[104] Details of relevant rulings are given in paragraphs 6.18 to 6.22.

CHAPTER 7

IMPACT ON THE LABOUR MARKET AND WORKING HOURS SITUATION

7.1 In this Chapter, we will examine the impact of working hours regulation on society and the actual working hours situation after implementation of the regulations. The examination will cover the following areas:

(a) implications for SMEs;

(b) impact on actual working hours;

(c) impact on the labour market and general economy; and

(d) relationship between SWH and SMW.

Implications for SMEs

7.2 The SME sector is a fundamental element in many economies and it plays a key role in stimulating entrepreneurship, driving economic growth and generating employment. This is particularly the case in Hong Kong. In 2011, SMEs constituted over 98% of all business establishments in Hong Kong and employed about 50% of the workforce in the private sector. Given their importance to our economy, it is essential that full regard be given to the likely impact on SMEs should we decide to go for an SWH regime.

7.3 In general, SMEs are characterised by their limited financial and manpower resources. However, their smaller size also allows them greater flexibility to respond promptly to market volatility and take advantage of market niches. In global value chains, large firms have been relying increasingly on services procured from, and productions outsourced, to SMEs, with very tight deadline, and SMEs have to ensure that orders are delivered on time, despite seasonal fluctuations and labour shortages. Hence, SMEs are particularly vulnerable to the introduction of any new labour policy that restricts business flexibility.

7.4 According to the experience in other places, the implementation of SWH may impact strongly on SMEs' operational flexibility, competitiveness and operating costs. Specifically, SMEs may have to hire additional staff and/or give overtime pay to existing ones to cope with seasonal surge in workload. This may push up operational costs, and generate additional administrative work for complying with various SWH requirements (e.g. extra administration staff to set up and manage system for recording working hours)[105].

7.5 In designing their working hours regimes, some economies had also given due consideration to SMEs' concerns and offered them special support and treatment. For example: (a) in Korea: the law provides for exemptions of SMEs with less than five employees and phased implementation of the 40-hour work week over seven years according to enterprise' sizes; and (b) in Japan: the regime allows deferred application of certain SWH requirements to SMEs (e.g. increased overtime pay rate for work exceeding statutory limit by 60 hours per month). In the EU, there has also been discussion on SMEs' request for an extension of reference period to respond to fluctuating market demands.

Korea[106]

7.6 To help SMEs better adapt to newly introduced SWH requirements, the Korean Government used a combination of two approaches, namely: limiting the coverage of working hours laws and deferring application of certain SWH requirements to SMEs. For instance, the Korean working hours legislation only applies to "businesses or workplaces in which 5 or more workers are ordinarily employed". In other words, businesses employing less than 5 workers are not covered[107]. When the Korean Government implemented the 40-hour work week in 2004 in phases, the larger corporations were among the first to be affected, while businesses

[105] The EO in Hong Kong requires an employer to record the total number of hours worked by the employee in a wage period if (a) SMW applies to the employee; and (b) wages payable to the employee in respect of that wage period are less than $11,500 per month.

[106] In Korea, businesses with 300 employees or less are SMEs. As at 2009, there were some 3.3 million SMEs employing about 17 million employees, which account for about 99.9% of the total number of businesses and 85.8% of the total number of employees in Korea.

[107] As at 2009, there were about 2.7 million establishments employing less than 5 employees (82.8% of total number of establishments), involving some 4.9 million employees (28.9% of total number of employees).

with 5 to 19 workers were only covered in July 2011 in the last phase. It was estimated that there were about 300 000 workplaces with 5 to 19 employees in Korea involving some 2 million workers[108]. This means that these 2 million workers were only entitled to the 40-hour work week seven years later than their counterparts in larger corporations.

7.7 The Korean Government also provided a subsidy to SMEs which launched the 40-hour work week at least six months ahead of the scheduled timetable given in the Korean LSA and employed additional staff. A subsidy of ₩1.8 million (HK$12,330) per additional employee hired per quarter was paid to the SMEs concerned until the statutory requirement became effective for the relevant businesses. The subsidy was subject to an upper limit of 10% of the number of employees of the business before the reduction in working hours (the limit was increased to 30% from January 2009 onwards). The subsidy was terminated by the end of 2010 as the 40-hour work week would be applicable to SMEs with 5 to 19 employees from July 2011.

7.8 While granting special treatment to the more vulnerable SMEs is a viable option and necessary measure under an SWH policy, it is worth noting that Korea's experience shows that such special treatment has the following negative effects:

(a) Exemptions/limited coverage of some SMEs are sometimes perceived as a "justified denial" of protection for SME employees who have been working excessively long hours and are therefore in fact the most in need of working hours protection.

(b) The widening gap in working conditions between large enterprises and SMEs makes SMEs' jobs even less attractive. This aggravates the problem in staff recruitment, which in turn further weakens SMEs' competitiveness against the large enterprises.

(c) The difficulty in recruiting adequate and quality manpower also contributes to the prevalent problem of SMEs' non-compliance with overtime limit as existing staff have to take up the additional workload.

[108] KOILAF (2010a).

Japan

7.9 There are now some 4.7 million SMEs[109] in Japan, making up 99.7% of all the country's enterprises. In formulating its SWH policy, the Japanese Government acknowledged SMEs' difficulties in reducing working hours and decided to defer application of certain SWH requirements to SMEs. For example, when the statutory work week in Japan was reduced from 44 to 40 hours in 1994, it was not applied to SMEs until 1997 in order to give the SMEs an adjustment period. Moreover, while the overtime pay rate for work in excess of statutory working hours by 60 hours per month increased from 25% to 50% with effect from 2010[110], the revised rate has not yet been applied to SMEs. This exemption is subject to review by the Japanese Government by 2013. Should it be decided by then that the exemption be removed, there could be strong reaction from the SMEs.

7.10 The special treatment given to SMEs in Korea and Japan under their respective SWH regime has aroused SME employees' concerns over the lack of protection of their statutory rights working in these companies. Some hold the views that employees should be protected irrespective of the size of the companies that they work for. They also believe that SME employees are indeed the ones requiring more protection than their counterparts in larger companies which usually can afford to offer more favourable working terms and conditions to employees.

[109] Definition of SMEs set forth in the Small and Medium Enterprise Basic Law as at 2011 is as follows:

Industry	Total capital amount or total investment amount		Number of regular workers
Retail	¥50 million (HK$5 million) or less		50 or less
Services	¥50 million (HK$5 million) or less	Or	100 or less
Wholesale	¥100 million (HK$10 million) or less		100 or less
Others	¥300 million (HK$30 million) or less		300 or less

The industry categorisation is based on the Japan Standard Industrial Classification.

[110] According to the revisions of the Japanese LSA in 2008, the labour and management must strive to stipulate, in a labour agreement on overtime work, an extra wage rate higher than the legal rate applicable to overtime work exceeding limit hours as set forth in the Standards on the Limit of Overtime Work given in **Appendix 2.3**.

The EU

7.11 In the EU, more than 23 million enterprises (99%) are SMEs[111], of which about 90% of them employ less than 10 employees. The WTD allows weekly working hours to be averaged over a reference period of four months, and up to 12 months by collective bargaining (details in **Appendix 2.8**). The long reference period gives SMEs more flexibility in staff deployment to deal with market fluctuations. Also, it helps SMEs to level out the overtime hours and relieve their burden of overtime pay.

7.12 However, the problem for SMEs in many EU Member States is that given their small staff size, collective agreements are not prevalent among them[112]. Therefore, they cannot utilise the 12-month reference period to help relieve their manpower constraints. As a recent survey commissioned by the EU [113] reveals, enterprises are still much concerned about the effect of working hours regulation on their competitiveness and their ability to cope with seasonal fluctuations. In the ongoing review of the WTD (please refer to paragraphs 6.9 to 6.11 for details), the employers' association representing SMEs in the EU has strongly demanded that the WTD be amended to allow a longer reference period without bundling such reference period with collective bargaining. However, given employees' concern that a longer reference period would at the same time reduce their opportunity to increase income through overtime pay[114], this thorny issue has yet to be resolved.

Comments

7.13 We learnt from experience in other places that in designing any working hours policy, it is essential to take into account the potential implications

---

111 Companies classified as SMEs are defined officially by the EU as those with fewer than 250 employees. Furthermore, their annual turnover may not exceed €50 million (HK$490 million), or their annual balance sheet may not exceed €43 million (HK$421 million).

112 Collective bargaining is not as widespread in SMEs as in large corporations in the EU, given that some 90% of SMEs employ less than 10 employees, and including family-owned businesses.

113 Centre for Strategy & Evaluation Services, Deloitte (2010).

114 The WTD does not govern pay rates for regular, overtime or "on-call" work, which remain entirely a matter for national law or collective bargaining.

for SMEs in order to strike a reasonable balance between SMEs' interests and affordability, as well as the rights and benefits of their employees. Although measures such as exemption of micro-businesses and delayed implementation of certain provisions may tide SMEs over the initial difficulties in implementing any working hours policy, as in the cases of Korea and Japan, these measures also carry negative impact and thus need to be understood and carefully considered, including any legal implications arising from "unequal" treatment for employees of SMEs. More deliberation is required to resolve this dilemma and find the right point of balance.

Impact on Actual Working Hours

7.14 SWH is generally perceived as a policy tool to reduce working hours by setting certain limits to the hours that employees should work, and its effectiveness has been demonstrated through a decreasing trend of working hours over the past years in economies such as Korea, Japan and the UK. However, these statistics have to be interpreted carefully given the fact that SWH may not have substantially reduced the actual working hours, as some would expect, of certain employees.

Japan

7.15 Official statistics revealed that despite a decline in the overall working hours of all employees over the past years[115], the actual working hours of regular employees[116] have largely remained the same. This is because the reduction in the former is mainly attributable to the increase in part-time employees working shorter hours rather than decrease in the working hours of regular employees[117]. The low utilisation rate of annual paid leave also contributed to the long annual working hours in the country. In 2010, the utilisation rate was 47.1% with an average of

[115] For establishments with 5 or more employees, the annual working hours of regular employees were above 2 000 hours (within the short range from 2 009 to 2 050 hours) for the period from 1993 to 2010 (except in 2009 after the financial tsunami at 1 976 hours), while the figures for all employees including part-timers fell from 1 920 hours in 1993 to about 1 754 hours in 2010. Quoted from the Japan Institute for Labour Policy and Training (2012), p. 88.

[116] A regular employee is someone who is regarded as regular or permanent employee in a workplace. Non-regular employees include part-time employees, temporary employees, dispatched employees from temporary labour agency, contract employees and others not classified in the above categories.

[117] From 1993 to 2010, the percentage of part-timers increased from 11.9% to 16.6%. Quoted from the Japan Institute for Labour Policy and Training (2012), p. 25.

8.5 days of leave taken (out of 17.9 days of granted leave).

7.16 Cultural factors also play an important part in influencing the actual working hours of employees in an economy. Working long hours is considered an expression of loyalty and hard work in Japanese and many other Asian cultures. With an increasing proportion of non-regular employees in the job market[118], regular employees who are often regarded as the skeleton staff of a company may, in some cases, have to work even longer hours.

Korea

7.17 Government, employers' associations and trade unions in Korea alike consider long working hours a challenging issue confronting the country. They realised that it was the increase in part-time employment resulting from the implementation of 40-hour work week, rather than a significant decline of working hours among regular employees, that had reduced the average annual working hours of the country. In fact, there was an increasingly polarised labour market with some employees working very long hours and others having very limited access to work.

7.18 In Korea, the long working hours situation is more prevalent for office workers. It is also common for workers in manufacturing industries to work overtime during weekends for extra income. For certain sectors such as information technology and creative industries where it is necessary to meet customers' demands and provide round-the-clock service, overtime work is considered a norm by both the employers and employees.

7.19 As in the case of Japan, work culture also plays a part in the long working hours situation in Korea. A survey[119] found that in Korea "a substantial proportion of workers believe they should undertake overtime if required, whether or not overtime payments are made; and among white-collar and professional workers in particular, long hours are highly valued as an indication of commitment to their employers".

---

[118] The percentage of non-regular employees (excluding executives) increased from 20.2% in 1990 to 34.3% in 2010. Quoted from the Japan Institute for Labour Policy and Training (2012), p. 41.

[119] Lee et al (2007), p. 136.

7.20 Professor KIM Tae-gi, Chairman of the Committee on Improvement of Working Hours and Wage Systems under the ESDC, recognised long working hours as a deep-rooted problem in Korea. Thus, the tripartite agreement adopted by the Committee in 2010 aimed at eradicating the practice of long working hours by promoting a nationwide movement to create a new labour culture.

7.21 Apart from the issue of overtime, it is common for workers in Korea to save their annual leave and encash it at the end of the year as part of regular earnings. This low utilisation of paid annual leave also contributes to long working hours in Korea.

7.22 Over the past few decades, both the Japanese and Korean Governments have introduced various measures and legislative amendments to their working time regulations for improvement of long working hours practice in their countries. The fact that this problem has yet to be fully resolved amply demonstrates the practical difficulties and high level of complexity of the issue. The experience of the two economies not only sheds light on how far and effective an SWH regime can improve a country's long working hours situation, it also brings to the fore many other related employment, economic, social and cultural issues that need to be addressed.

Australia

7.23 In Australia, the weekly standard of 38 hours was introduced in many sectors through various industrial awards in early 1980s. Between 1986 and 2006, there was a slight decline in the average weekly hours worked by all employees mainly because the strong growth in part-time employment, particularly for women, had increased the proportion of employees working fewer hours. However, the same period also saw an increasing proportion of employees working longer hours. For example, 30% of men working full-time worked 50 hours or more per week in 2005, up from 22% in 1985[120].

[120] Australian Bureau of Statistics (2006a).

7.24 In the 2010 Australia at Work[121] survey, almost two-fifths (37%) reported usually working more than 40 hours per week (including 19% in 41-49 hours, and 18% in 50 or more hours). In terms of the longest hours worked, almost two-fifths (38%) of full-time managerial and professional employees reported working more than 50 usual hours a week and more than one-quarter (27%) 41-49 hours. Professionals were ranked second, as more than one-fifth (22%) worked more than 50 hours a week, and a further one-fifth (21%) 41-49 hours.

The UK

7.25 Since the WTR came into force in October 1998, the average usual working hours of UK employees fell from 37.7 hours in 1999 to 36.3 hours in the second quarter of 2011. Apart from structural changes in the economy (from manufacturing to service with shorter working hours on average), an increase in part-timers in the labour market was also a major factor leading to the reduction in average working hours. In the same period, the number of part-timers increased from 25% to 27%. By sector, although the average working hours of those in the service and construction sectors dwindled since the WTR's implementation, the working hours of those in the manufacturing sectors remained similar over the years. Employees working in lower-skilled jobs on average worked the longest paid hours per week in 2011. They include: crane drivers (52.8 hours), heavy goods vehicle drivers (48.4 hours) and mobile machine drivers and operatives (48 hours)[122].

Comments

7.26 While it is a common perception that SWH would be conducive to reducing overall working hours, one must be cautious not to take it as a panacea for all problems arising from long working hours for the following reasons:

---

[121] Australia at Work survey was conducted by the Workplace Research Centre at the University of Sydney Business School. It was a five-year longitudinal telephone survey of people who were aged 16 to 58 years and in the Australian labour force in March 2006. The survey aims to analyse the effects of the recent changes in the industrial relations law on working Australians. The research participants were contacted once a year for five years (2007 to 2011) to find out how their working lives were changing. The 2010 findings are quoted from Workplace Research Centre (2011), p. 1-2.

[122] Office for National Statistics, the UK (2011).

(a) Long working hours is a very complex issue associated with the structural changes in the economy, labour market, social or even cultural dimensions of individual economies. This may require other appropriate labour and non-labour policy tools than just SWH to resolve.

(b) The overall working hours situation is heavily influenced by the macroeconomic environment, and the state of manpower demand and supply (please refer to Chapter 8 for details).

(c) Some employees, as a result of their job nature or seasonal market fluctuations, may have to work longer hours and hence may not be covered in an SWH regime.

(d) Some employees, especially low-paid workers, may willingly take up overtime work for better earnings.

7.27 In the light of experience in other places, it is important for the community to have a realistic expectation of how far SWH can alleviate the problem of long working hours in Hong Kong. It is also important to gauge the expectation of employees as to how long they prefer to work since this would have bearing on their earnings. One essential question that we need to address is how we should strike a balance between employees' freedom to choose their working hours on the one hand and suitable protection of their safety and health on the other.

Impact on the Labour Market and General Economy

7.28 As discussed in Chapter 5, one policy objective that some economies hope its working hours policy could achieve is job creation. In fact, experience in other places reveals that for some economies such as Korea, Japan and Australia, there is an increasing trend of part-time employment following further reduction of working hours or implementation of SWH.

Korea

7.29 The Korean Government considered that long working hours hampered job creation. By further reducing the level of SWH, it was hoped that more job sharing can be encouraged and the share of part-time employment could increase. In fact, following the implementation of the 40-hour work week, part-time employment increased from 8.4% of

total employment to 13.5% from 2004 to 2011[123].

7.30 However, the proliferation of part-time employment also gave rise to the issue of unfair treatment of part-time employees compared with their full-time counterparts. In particular, part-time employment is often perceived as less secure, less privileged and with poorer career prospects in some economies including Korea. Some Koreans even argue that the country's working hours policy has resulted in more low quality part-time jobs.

7.31 Meanwhile, the Korean Government also recognised that there was an unfair and unbalanced structural problem in Korea's labour market where some were habitually working long hours while others had no access even to part-time jobs. Against this background, the Government puts in place different measures to promote part-time employment. For example, the Government will introduce at the central and local government levels a job-sharing system in which more hourly-paid workers will be employed, and full-time jobs will be divided into two or more part-time jobs. Also, the Government will subsidise employers 50% of the wage not exceeding ₩400,000 (HK$2,740) per month for employing each part-time employee and will legislate for an "Act on Improved Employment of Regular Part-time Workers".

Japan[124]

7.32 The Japanese LSA was amended in 1994 to reduce the statutory work week from 44 hours to 40 hours[125]. Coupled with the bursting of the economic bubble in the 1990s and the global financial tsunami in 2008, as well as the increasing importance of service-based industries requiring high operational flexibility, there was an increasing proportion of non-regular employees working part-time, contract or temporary jobs in the Japanese labour market. From 1993 to 2010, the percentage of non-regular employees increased from 20.8% to 34.3% (the percentage of part-timers from 11.9% to 16.6%, and that of contract employees from virtually nil to 6.5% in the same period). Japan is facing

123 OECD (2012).

124 The statistics from this paragraph are quoted from Japan Institute for Labour Policy and Training (2012).

125 The 40-hour work week was applicable to SMEs in 1997.

"polarisation between stable regular workers who work long hours and unstable non-regular workers"[126].

Australia

7.33 With the establishment of the weekly standard of 38 hours in many sectors through industrial awards, average actual hours for full-time employees in all jobs dropped to a low of 38.2 hours per week in 1982[127]. However, there is a polarisation of working time pattern in which more employees are working either much shorter or longer than an "average" worker. For example, the proportion of Australian workers working 35 to 40 hours per week fell from 48% to 42% between 1985 and 2005[128]. This development points to the significant role of part-time work, often with very short hours, in the labour market. Indeed, the proportion of part-timers almost doubled between 1979 (16%) and 2008 (29.5%)[129].

Workers with Multiple Contracts

7.34 Proliferation of part-time employment also gives rise to the situation in which some workers have to work for multiple employers or contracts at the same time to earn sufficient income. This leads to the question of whether weekly working hours limit should apply on the basis of each worker or each contract.

7.35 At the EU level, the European Commission has stated that the WTD, though not mentioned therein, must be applied as far as possible on a per worker basis given its aim of protecting safety and health. However, it is found that enforcement can be problematic if the worker does not reveal his other job(s) to all his employers.

7.36 In the UK, the WTR do not directly address the situation of employees having more than one job for different employers. However, the UK Government has provided guidelines which state that, if a worker is

---

126 Facts and Measures for Work-life Balance in Japan, Ikko Nakatuska, Senior Vice Minister for Gender Equality, Cabinet Office, Powerpoint presentation in November 2011.

127 Campbell (2005), p.3.

128 Australian Bureau of Statistics (2006a).

129 Australian Bureau of Statistics (2009).

known to have a second job and the total time he is working is in excess of 48 hours per week, the employer should ask him to consider signing an opt-out. If the worker refuses, then the worker should consider reducing his own working hours to meet the 48-hour limit. Notably, there is no suggestion that the employer should consider reducing the workers' hours.

7.37 It appears that neither the EU nor the UK has adopted a legal approach to tackle the problem of workers with multiple contracts. Guidelines are issued but its effectiveness depends heavily on the willingness of employers and employees to co-operate. Apart from the EU and the UK, the working hours legislation of other economies under study also have not explicitly stated whether application of weekly working hours limit should be on the basis of each contract or each worker.

7.38 Aside from the concern regarding employees' safety and health, uncertainty regarding overtime pay may also be an issue. For instance, should an employee whose total working hours for more than one employer exceed the statutory limit be eligible for overtime premium? If so, how do we determine which employer(s) is/are responsible for paying this premium rate? Since part-time workers who work very long hours are still uncommon, this issue may not warrant immediate attention. However, as part-time employment becomes more prevalent, this would be an issue for the deliberation of any working hours policy in future.

SWH and Productivity

7.39 Productivity is a measure of how effectively or efficiently an enterprise uses its resources to produce goods and services. High productivity contributes to economic growth and improves a nation's living standard in the long run. Although there is little argument that working hours legislation can bring significant impact on workers' productivity, there is considerable debate on whether such impact could be positive or negative, and what the factors are to be considered in analysing this relationship.

7.40 ILO suggested that working hours reduction may improve labour productivity on three counts[130]. First, long hours are associated with slower movement and more pauses in work. Conversely, shorter hours may lead to increases in the pace of work. Second, better working time arrangements may motivate employees to work in more efficient ways. With better physical and mental health, they are more spirited and alert, thereby improving productivity. Third, change in working time may compel the management to improve organisation of work, which is probably productivity-enhancing. An ILO publication, however, noted that the empirical relationship between working time and productivity is weak in developing countries and output increases are often associated with increase in overtime work. For example, the productivity increase in Mexico was primarily caused by long workdays rather than a more efficient use of working time[131].

7.41 To facilitate the European Commission's review of the WTD, Deloitte Consulting, in a recent report[132], analysed the relationship between total factor productivity and changes in working hours in six sectors[133] among the EU Member States and selected non-EU countries, and concluded that the relationship varies by countries and by industries.

7.42 According to the Deloitte study, if one compares the country effects over the industries, it is not possible to distinguish a pattern in total factor productivity growth and changes in working hour. A country may display a strong impact on productivity by a change in yearly hours worked per employee in one industry, while remaining stable in another industry with the same change in hours. In short, the relationship between working hours reduction and productivity increase is far from conclusive.

---

130 ILO (2004). ILO (2011).

131 Lee et al (2007), p. 123.

132 In September 2009, the European Commission launched a new review of the WTD based on a full-scale consultation of "social partners" and an extensive impact assessment. Deloitte Consulting was subsequently commissioned to undertake the impact study. The final report, "Study to support an Impact Assessment on further action at European level regarding Directive 2003/88/EC [WTD] and the evolution of working time organisation" was published by Centre for Strategy and Evaluation Services, Deloitte Consulting in November 2010.

133 The six sectors are construction, hotels and restaurants, financial intermediation, textiles, post and telecommunications, and electricity, gas and water supply. These sectors are believed to be most susceptible to productivity impact.

Comments

7.43 Indeed, part-time employment is a proven form of flexi-work which, can attract retirees and women[134] to enter into the labour market, thereby retaining their skills. This is particularly valuable to economies facing an ageing problem such as Korea and Japan. However, it is important to note that jobs taken up by part-timers usually involve lower skills and qualifications. From this perspective, low-wage employees will be mostly affected as some full-time jobs previously available in the labour market may be changed to part-time ones with the implementation of SWH. We have to bear in mind that working hours policy may have the possible side-effect of increasing underemployment resulting from involuntary part-time employment as well as workers becoming self-employed. Eventually, the community has to decide whether it is desirable to see a possible increase in the share of part-time employment and self-employment in the local labour market arising from the adoption of a working hours policy.

7.44 As for the relationship between working hours reduction and productivity growth, there has been considerable debate over the years. Deloitte's recent research as presented, together with other empirical studies (please refer to paragraph 10.8 for a brief overview), suggested that the effect of working hours reduction on productivity is still far from conclusive.

Relationship between SWH and SMW

7.45 With the exception of Singapore and Macao, most economies under study have established both SMW and working hours regimes. While some economies introduced working hours regime first followed by SMW regime (e.g. Korea and Japan[135]), others introduced the two regimes within a relatively short period of time (e.g. the Mainland, Taiwan and the UK[136]). Although these two systems could both allow

[134] Some women may withdraw from the labour market as a result of their child-rearing responsibility, yet they may be able to take up part-time jobs as their children grow up and such responsibility becomes lighter.

[135] The year of introduction of working hours regulation and SMW in Japan was 1947 and 1959 respectively, and that for Korea was 1953 and 1988 respectively.

[136] The Mainland and Taiwan implemented both working hours and SMW regimes in 1994 and 1984 respectively. The UK implemented working hours and SMW regimes in 1998 and 1999 respectively.

employees to enjoy greater labour protection, it should be noted that they were often designed to serve very different legislative intentions. While SMW mainly targets at those working in the low-paid jobs with a view to forestalling excessively low wages in general, SWH targets at a broader spectrum of employees through the reduction of working hours, and involves broader objectives. As such, we need to be careful not to jump to the conclusion that the establishment of one necessarily leads to or requires the introduction of another.

7.46 We have highlighted below the relationship of the two regimes to facilitate better understanding of their possible interaction.

Economic Impact of Establishing both SMW and SWH regimes

7.47 As will be elaborated in Chapter 10, the implementation of SWH, coupled with SMW, may hinder labour market adjustments during economic downturn. Specifically, SMW sets a wage floor which restrains the downward adjustment of wages whilst SWH would constrain the upward adjustment of working hours. Interaction of these factors may limit the flexibility of businesses to adjust during hard times and the economy's ability to rebound from economic turmoil or external shocks. This could result in job displacement, especially for the more vulnerable workers with lower education, lower skills and of older age.

7.48 On the other hand, economies with only SWH or SMW regulation can cope with economic fluctuations with fewer constraints, and employers have more flexibility in adjusting either the wage level or the total working hours to cater for actual business need. Should Hong Kong decide to establish a working hours regime shortly after the implementation of SMW in May 2011, it is prudent for us to take into account its potential immediate effect on our businesses, especially SMEs which account for about 98% of all our business entities, as well as the perception by the global business community of Hong Kong as the freest economy in the world.

Interplay of SMW and SWH

7.49 Working hours regimes around the world aim to achieve various policy objectives (e.g. occupational safety and health, better work-life balance, fair compensation for overtime, etc.) through working hours reduction. Our study shows that the SMW rate may affect the effectiveness of an SWH regime in reducing working hours. As mentioned in an ILO publication, "low hourly pay can induce workers to work longer" and "there is some evidence of this phenomenon in countries across the world"[137]. The important question arises as to whether the SMW rate will allow employees to earn adequate income with fewer working hours. If not, they will resort to working longer hours or overtime to increase their earnings, or to take up a second job in addition to their main employment. On this premise, taking the case of the UK as an example, an author suggested that "the level at which the national minimum wage [in the UK] is set is therefore likely to be crucial to the success or otherwise of the WTR in bringing down average working hours in the UK"[138].

7.50 In the case of Hong Kong, the initial SMW rate has been set according to an evidence-based approach, taking into account evidence obtained from various sources and analysing them with reference to a basket of indicators, other considerations relevant to the SMW policy and thorough impact assessment. This seeks to strike a sensible balance between forestalling excessively low wages and minimising the loss of low-paid jobs, while sustaining our economic growth and competitiveness. The impact of the SMW rate on the success of SWH is mentioned above. Thus, if an SWH regime is to be pursued, it will be necessary to deliberate on the interplay of the two regimes so that the effectiveness of our evidence-based approach in setting the appropriate SMW rate can be maintained.

[137] Lee et al (2007), p. 123.

[138] Pitt and Fairhurst (1998), p. 35.

Comments

7.51 Owing to their limited resources, SMEs are more vulnerable under SWH policy compared with the large corporations. They may need special measures such as phased implementation and even provision of subsidy to facilitate their compliance with SWH requirements. Moreover, SWH may bring about a possible increase in the share of part-time employment, thus the issue of employees taking up multiple part-time jobs and their protection under SWH policy should be addressed. Besides, the community should be aware that working hours regulation may lead to reduction in working hours and thus affect the take home pay of some employees in some cases. It should be noted that the possible impact of SWH, especially if implemented relatively shortly after the introduction of SMW, may weaken Hong Kong's capacity to rebound in a recession.

7.52 While there are views that the introduction of SMW must lead to legislation for SWH, it is important to note that SMW and SWH each serves very different policy objectives and it is possible for one to exist without the other. Economically, the cumulative effect of SMW and SWH may significantly weaken the flexibility of businesses to adjust and rebound during hard times. Moreover, the level of SMW rate may affect the effectiveness of a working hours regime. In the case of Hong Kong, it is important to weigh carefully the possible interplay of the two regimes in the context of our economic well-being.

CHAPTER 8

WORKING HOURS IN HONG KONG: A MACROECONOMIC PERSPECTIVE

8.1 Having surveyed other places' experience in working hours regulation in Part II (Chapters 3 to 7), and noting the relatively long working hours in Hong Kong[139] compared with other economies, Part III (Chapters 8 to 10) examines the economic linkage between working hours, economic activity, the labour market and working time reduction policy.

8.2 Part III comprises three Chapters. This Chapter studies long working hours from a macroeconomic perspective. Coupled with the structural transformation towards a service-oriented economy over the past three decades, this phenomenon can be viewed as part of the labour market dynamics in Hong Kong, particularly given its flexibility with simple regulations which allow supply-demand adjustment of working hours.

8.3 The analysis will be followed by a detailed analysis of the working hours distribution of local workers in Chapter 9. The data show long contractual working hours in a number of sectors, especially in labour-intensive services. Chapter 10 provides an economic and cost impact assessment based on scenario studies, and will give an idea of the complexity and potential impact of implementing SWH.

Macroeconomic Backdrop

8.4 Working hours patterns are affected by many factors. However, given that they are part of the overall labour market phenomenon, it may be more meaningful to focus our analysis on the macroeconomic perspective. The following paragraphs briefly describe some key characteristics of the labour market in Hong Kong and the background to its evolution over time, which sets the scene to further analysis of how these fundamentals can relate to the relatively long working hours

[139] Hong Kong's estimated average total weekly working hours for full-time employees, although not strictly comparable, were among the top across major economies.

of employees in Hong Kong (see paragraphs 8.11 to 8.23).

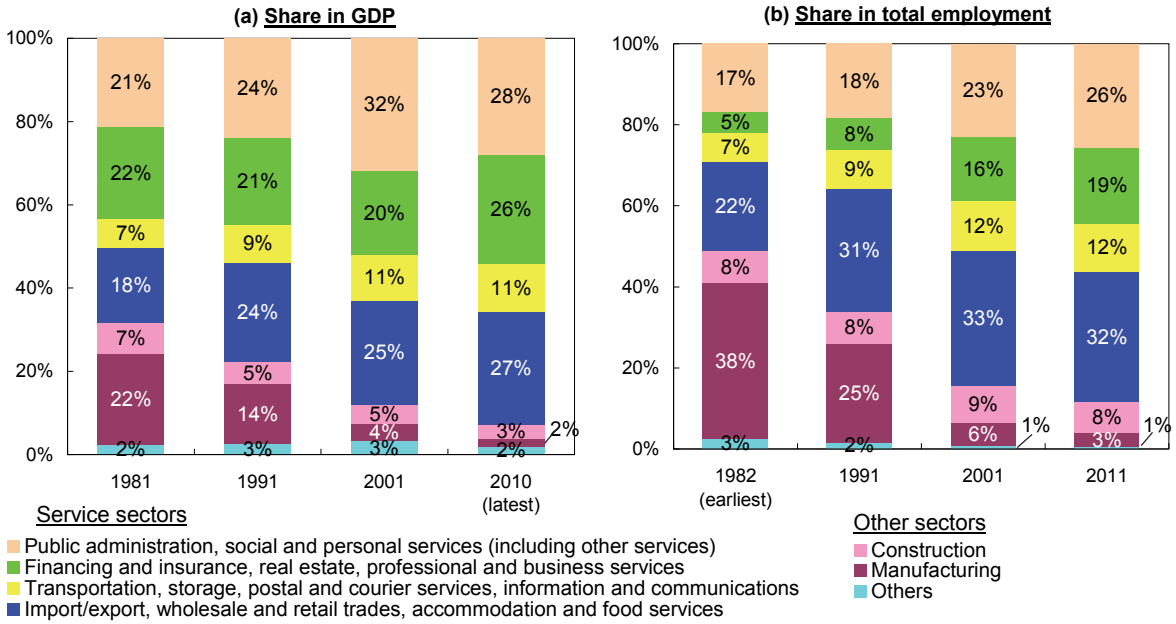
Structural Transformation towards Service-oriented Employment

8.5 In the early 1980s, Hong Kong manufacturers seized the opportunities offered by the Mainland's economic reform and made the strategic move of relocating their production to the Pearl River Delta region to reap the benefits of ample and cheap supplies of land and labour. The synergy produced by the inflow of capital, management and technological know-how catalysed the rapid growth of the Mainland's market economy and propelled Hong Kong's transformation into the major regional trade, business and financial hub it is today.

8.6 With Hong Kong's deepening economic integration with the Mainland through the Closer Economic Partnership Arrangement platform and other initiatives, and leveraging on its competitive advantage in services, Hong Kong's service sector has grown by leaps and bounds, with the value-added increasing by a cumulative 63% in real terms over the past decade, outpacing the corresponding 55% growth of the real economy.

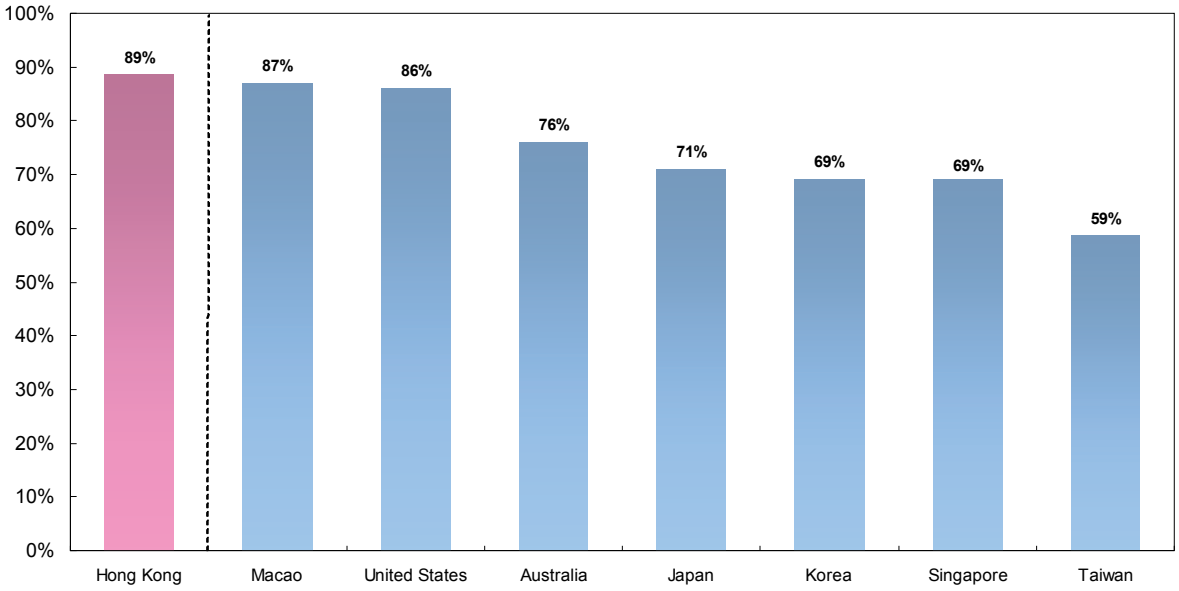
8.7 The share of the service sector in gross domestic product (GDP) grew from 68% in 1981 to 93% in 2010. In tandem, the structural change of the economy towards the service sector is accompanied by a shift in the sectoral composition of employment (**Figure 8.1**). The share in total employment of those engaged in the service sector increased from 51% in 1982 to 89% in 2011. While many economies around the world have experienced an increasing proportion of employment in the service sector, Hong Kong's case is still distinctly conspicuous by comparison (**Figure 8.2**).

Figure 8.1: The Hong Kong economy is becoming increasingly service-oriented



Sources: National Income Statistics and Composite Employment Estimates, C&SD.

Figure 8.2: Hong Kong's employment share in service sector is high even when compared to other economies



Note: All statistics shown are for the reference year of 2011, except for Singapore where only 2010 statistics are available.
Source: CEIC.

Open and Flexible Labour Market

8.8 While the economy has been undergoing a structural transformation, it should be pointed out that our overall economic philosophy remains committed to free and open markets. The labour market is likewise

open and flexible, allowing entry and exit without high transaction costs. According to the *Economic Freedom of the World: 2011 Annual Report* published by the Fraser Institute, Hong Kong has not only continued to rank first in the overall index, but also ranked second in "labour market regulations".

8.9 Unlike other economies which adopt a working hours policy, there are no universal statutory restrictions on working hours in Hong Kong. As a result, labour inputs (in terms of headcount and working hours) are able to reflect the demand and supply balance of manpower, and the labour market can maintain greater flexibility and rapid adjustments under dynamic economic conditions. This will be further explained in paragraphs 8.24 to 8.29.

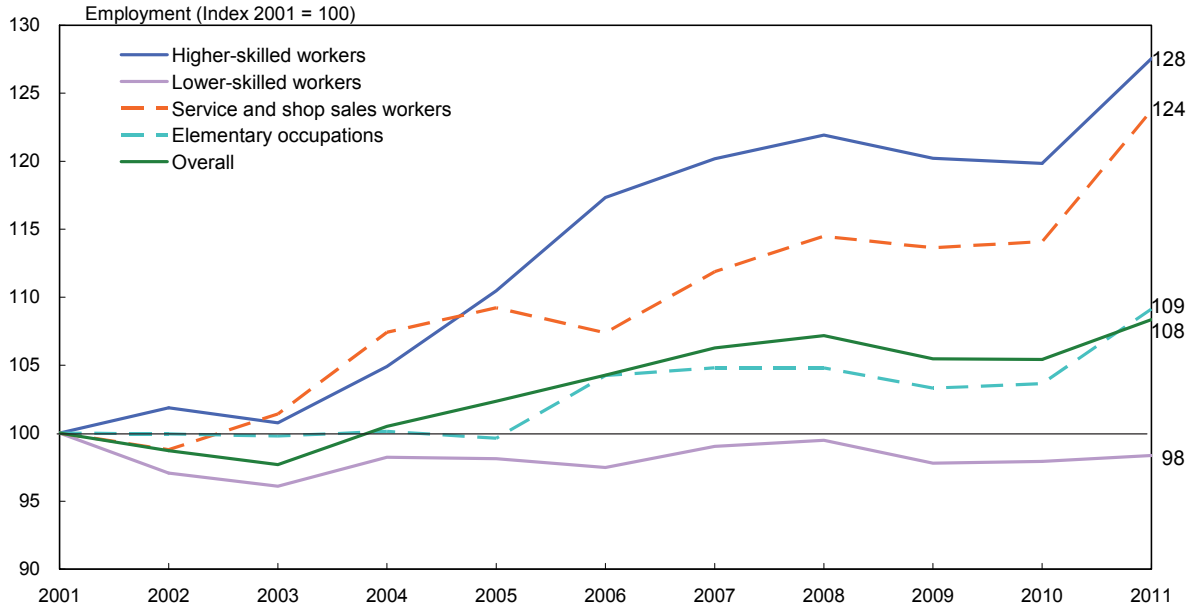
8.10 More importantly, the structural transformation of the labour market, coupled with the free market mechanism, naturally results in a continuous process of adjustments in labour demand, not only in terms of headcount but also in working hours in favour of specific sectors and occupations.

Development in the Labour Market and Its Connection with Long Working Hours

8.11 It is in the context of the Hong Kong economy's heavy reliance on services that the relatively long average working hours should be viewed. Of particular note is the growth of the consumption-related sectors, driven by both domestic demand and inbound tourism. To give a rough idea, domestic consumption of goods and services grew by 64% in real terms over the past decade between 2001 and 2011, faster than the 55% growth in real GDP. If tourist spending is included, the volume of retail sales grew even more, by 86% over the same period.

8.12 In tandem, employment growth in the consumption-related service sectors has outpaced the overall employment growth over the past 10 years. Indeed, an occupational analysis over the same period shows that the number of service and shop sales workers, elementary workers and higher-skilled workers rose by 24%, 9% and 28% respectively (**Figure 8.3**).

Figure 8.3: Consumption-related employment has seen above-average growth over the past decade



Source: General Household Survey, C&SD.

Growing Demand for Workers in Consumption-related Services

8.13 In light of the faster employment growth of service and shop sales workers, and elementary workers in many consumption-related sectors, it is not difficult to see how the relatively long average working hours in Hong Kong may have arisen from the operational needs of these sectors to cater for the local living environment and people's lifestyle.

Service and shop sales workers

8.14 Hong Kong is a world-class services and business hub. It has to live up to its reputation by providing a high quality of services. As "Asia's World City" and the "City of Life", Hong Kong is widely recognised among tourists as a shopping and culinary paradise. Restaurants and retail stores, employing most of the service and shop sales workers, tend to open for long hours to meet business demand and operational needs, serving both local and tourist customers.

8.15 Unlike many overseas places where shops are closed by the early evening or even late afternoon, it is very common for shops in Hong Kong's tourist areas such as Causeway Bay, Tsimshatsui and Mongkok to stay open until the late evening. Similarly, many convenience stores,

supermarkets, fast food shops and restaurants are open round-the-clock, or at least until late night, which makes shopping and eating out all the more convenient for residents and tourists alike.

8.16 Policy studies in other economies have suggested that regulated or restrictive shop opening hours tend to undermine the competitiveness of the retail sector in many western countries, as compared to Asian cities such as Hong Kong, Macao and Singapore with more liberal business hours [140]. Among the latter cities, an article published in the *International Journal of Tourism Research* pointed out that "opening hours of shops" is an attribute ranked third in terms of the value to shoppers' experience, just after product reliability and product variety[141].

Elementary workers

8.17 Other domestic-oriented and labour-intensive sectors that tend to have long contractual working hours owing to sector-specific operational needs, such as security guards in estate management and care workers in elderly homes, consist mostly of elementary workers.

8.18 The demand for these services has much to do with Hong Kong's city development and demographic profile. For example, most residents in Hong Kong live in high-rise apartment flats. Such highly concentrated and stratified living environment has increased the need for 24-hour security services. As another example, an ageing population has led to higher demand for healthcare and elderly home services. These services would often require round-the-clock care for the elderly and patients.

8.19 The above analysis will be further examined in Chapter 9 as these lower-skilled workers commonly found in sectors such as retail, restaurants, elderly homes, and estate management and security all have exceptionally long contractual working hours as compared to their peers. It should also be noted that for these lower-skilled groups, long working

[140] Australian Government Productivity Commission Inquiry Report: *Economic Structure and Performance of the Australian Retail Industry*, No. 56, 4 November 2011. McKinsey Global Institute: *Netherlands Report – Retail* (http://ww1.mckinsey.com/mgi/reports/pdfs/dutch/Retail.pdf).

[141] *International Journal of Tourism Research*: *Preferred Shopping Destination: Hong Kong versus Singapore,* March/April 2004.

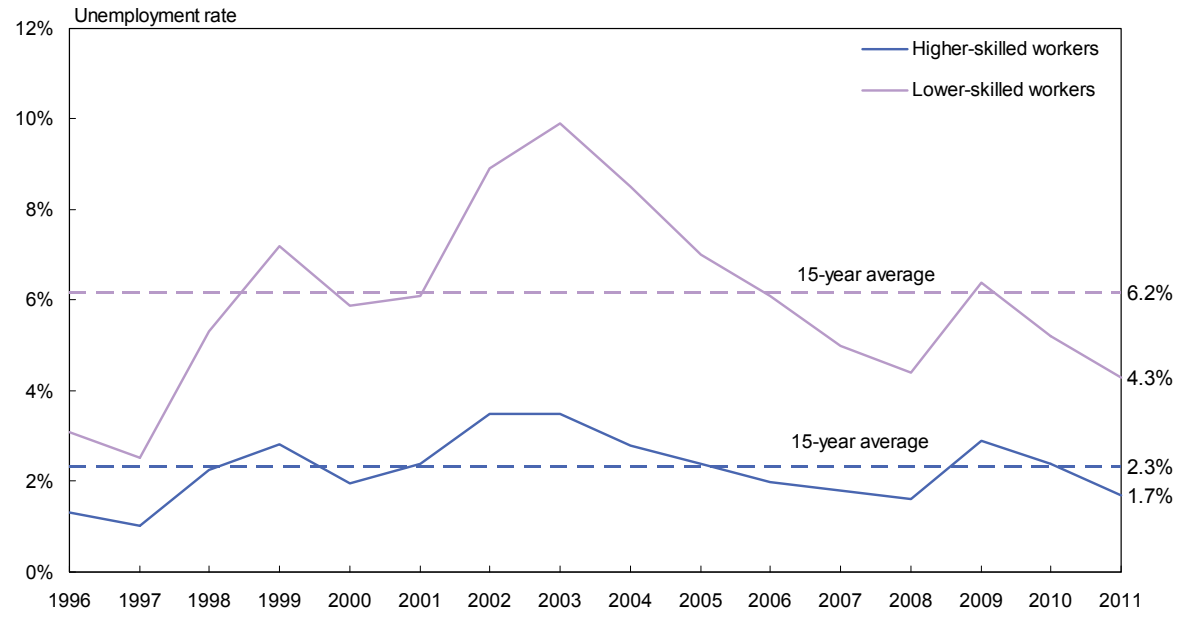
hours are not only part of their job nature, but also a necessary avenue for them to earn more incomes with the hours compensating for the lower hourly wage rates.

Growing Demand for Workers in Professional and High Value-added Services

8.20 As a result of Hong Kong's structural transformation into a knowledge-based and high value-added economy, employment has been shifting towards the higher-skilled segment. It should be noted that the operational need and service pledge for longer working hours may also apply to higher-skilled work. As an example, it is not uncommon in the financial sector for workers in Hong Kong to work late hours to bridge the time zones between other global financial centres such as New York and London. Likewise in the logistics sector, our airport and container terminals provide round-the-clock, 365-days-a-year services. There is always a need for longer hours to provide quality and timely services in order to stay competitive in the globalised arena. And staying afloat amid keen global competition is the key to economic growth and a higher living standard for our citizens.

8.21 Moreover, though the contractual hours of higher-skilled workers are usually shorter than those of lower-skilled workers, it is observed that a considerable proportion of them have long uncompensated overtime work (see Chapter 9 for details). This reflects the work aspirations among the higher-skilled workers, and possibly a comparatively tight labour market of this sector regardless of economic fluctuations. Such tightness is manifested in a persistently lower rate of unemployment among the higher-skilled, averaging at 2.3% over the past 15 years (**Figure 8.4**).

Figure 8.4: Higher-skilled segment of the labour market is persistently tight



Source: General Household Survey, C&SD.

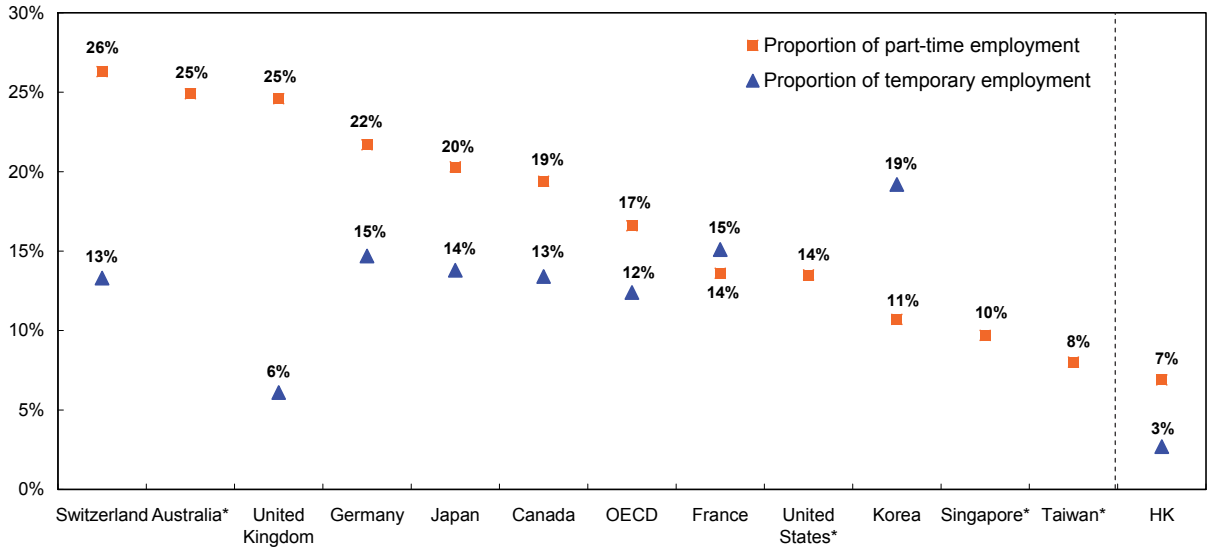
8.22 The growing labour demand for higher-skilled workers and relatively tight labour market conditions in the higher-skilled segment may result in an upsurge of overtime hours for higher-skilled workers to compensate for the human resource constraints, especially during peak seasons. Indeed, the estimated average total working hours[142] of these full-time employees have generally lengthened by 2% over the past 15 years to 46.1 hours per week in 2011.

Small Proportions of Part-time and Temporary Workers

8.23 Apart from the above compositional change of the labour market in various sectors and occupations during the structural transformation, long average working hours in Hong Kong may also be partly attributable to its low proportions of part-timers (7%) and temporary workers (3%) as a consequence of the strong demand for full-time/permanent workers in firms under a liberal labour market without working time regulations. This is in stark contrast to many other developed economies where part-time and temporary jobs are more common (**Figure 8.5**).

142 The figure was compiled based on the change in the estimated average total working hours (following the definition presented in Chapter 9) between 1996 (sourced from the results of the Special Topic Enquiry conducted during October-November 1996) and 2011 (sourced from the results of AEHS and GHS).

Figure 8.5: Hong Kong has among the smallest proportions of part-time and temporary employment compared with many advanced or newly industrialised economies



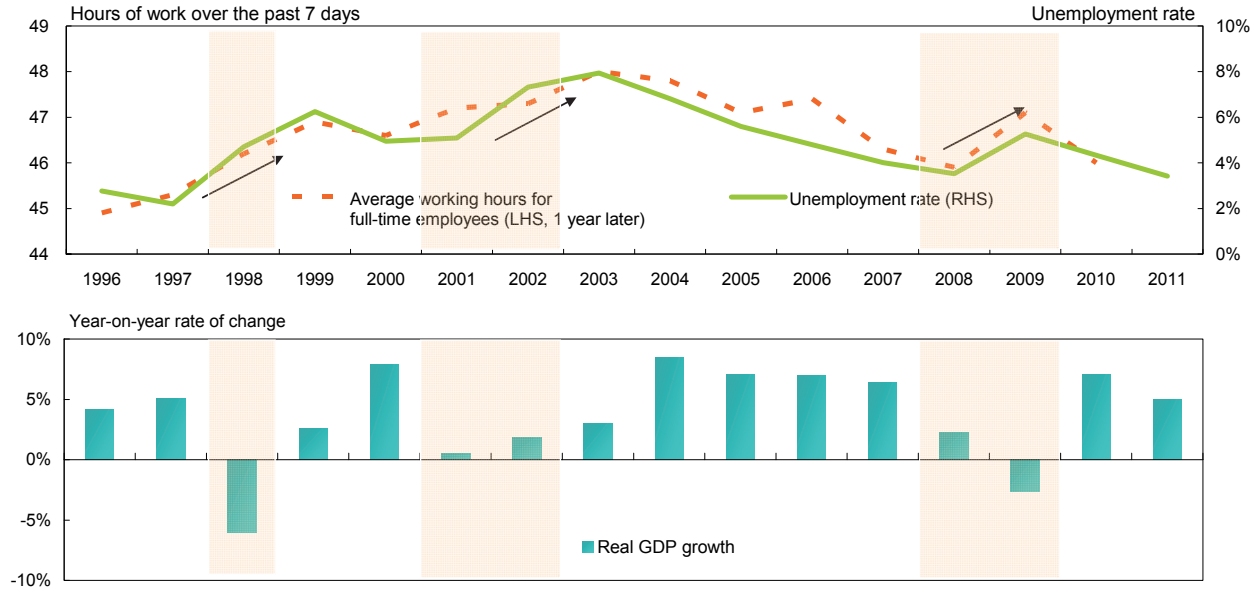
Notes: (*) Data on proportion of temporary employment are not available.
All statistics shown are for the reference year of 2010.
Sources: Hong Kong: Annual Earnings and Hours Survey; Taiwan: CEIC; Singapore: Singapore Department of Statistics; rest of the world: OECD Employment Outlook.

Working Hours as a Shock Absorber and Source of Economic Growth

8.24 As noted in paragraph 8.9, working hours are also affected by cyclical factors. In particular, the response reflects resilience and adaptability on the part of the labour force against adverse shocks to the economy. **Figure 8.6** shows average weekly working hours[143] (both compensated and uncompensated) plotted against real GDP and unemployment rate. It can be seen that changes in working hours are closely correlated with movements in the latter two variables related to economic cycles.

[143] Statistics on average weekly working hours used in Figures 8.6 and 8.7 refer to the average number of hours which a full-time employee actually worked in all employment during the seven days before enumeration, based on data from GHS.

Figure 8.6: Working hours as part of labour market adjustment mechanism in response to business cycles besides employment



Sources: National Income Statistics and General Household Survey, C&SD.

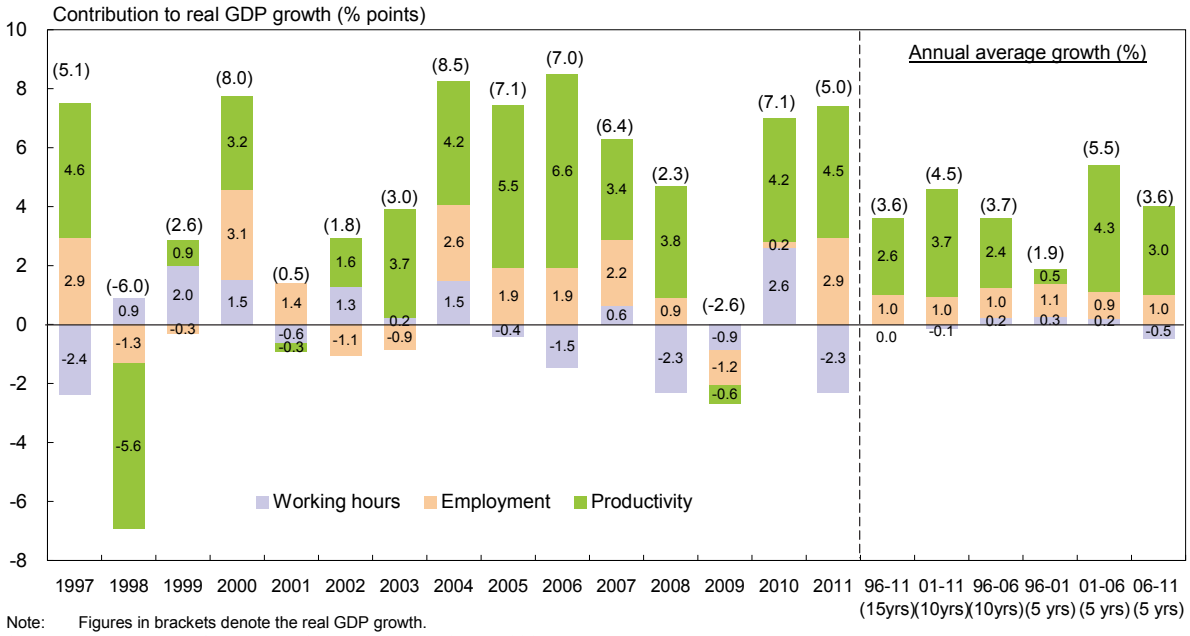
8.25 Specifically, working hours generally increased after an economic downturn and in tandem with rising unemployment, e.g. in 1998, 2001 and 2009. Indeed, in the down-cycle years from 1997 through to 2003, during which the economy was impacted successively by the Asian financial crisis (1997), IT bubble burst (2001) and Severe Acute Respiratory Syndrome (2003), average weekly working hours were generally on an uptrend, climbing from 45 hours in 1997 to 48 hours in 2004. Average working hours gradually shortened over a period of economic expansion until the 2008-09 global financial crisis.

8.26 It is conceivable that longer working hours serve as a tool for employers to cut costs and mitigate the negative effects of reduced headcount, and for employees to enhance productivity and tide over difficult times. On the other hand, during periods of strong economic growth and tightening labour market with unemployment rate falling and job creation across many segments, firms usually tend to recruit additional manpower to share the workload. This has a mitigating effect on long working hours.

8.27 If economic growth is crudely decomposed over the past 15 years into labour input (comprising employment and working hours) and productivity, the contribution to growth of working hours is seen to

increase more after recession years, i.e. higher proportions recorded in years 1998, 1999, 2002, 2004 and 2010 (**Figure 8.7**). This result is in line with the earlier observations in paragraph 8.25. Further, the contributions of employment and working hours generally change in the opposite directions so that as employment falls during an economic downturn, working hours tend to increase, while during an up-turn with increasing employment, working hours tend to decrease.

Figure 8.7: Working hours as a cushion to economic fluctuation and would potentially play a greater role as future growth driver amid population ageing



Note: Figures in brackets denote the real GDP growth.
Sources: National Income Statistics and General Household Survey, C&SD.

8.28 This finding illustrates the shock absorbing role of working hours from a macroeconomic perspective in that lengthening working hours may help to sustain output growth amid employment loss during recessions; whereas when hiring sentiment improves and employment increases, people can enjoy more leisure time by working shorter hours. As working hours would tend to extend or shorten depending on cyclical conditions, flexibility in working hours provides an important adjustment mechanism and serves as a cushion or lubricant in the labour market.

8.29 In terms of trend analysis over longer time periods (5-, 10- and 15-year), economic growth in general is determined firstly by productivity growth and then by employment growth. The changes in working hours contribute only marginally to economic growth. However, in view of the anticipated ageing population and manpower shortage, and as the

economy continues with a more moderate productivity growth, working hours may play a more prominent role in the growth equation. Further analysis will be provided in paragraphs 10.19 to 10.20.

Comments

8.30 In short, in addition to many other factors, working hours can also be closely related to Hong Kong's ongoing transformation towards a high value-added and knowledge-based service economy. Longer working hours may not necessarily be viewed as a conflict between the interests of employers and employees, but rather as part of the high quality and timeliness of services that Hong Kong provides amid intense global competition.

8.31 Such flexibility in working hours has not just enabled Hong Kong to retain labour market resilience in countering economic shocks, with working hours tending to lengthen to sustain output growth amid employment loss during recessions, but may also play a potentially important role in economic growth in view of the anticipated ageing population[144] and dwindling labour force.

8.32 On the other hand, experience in other places discussed in Part II suggests that the negative economic impacts of SWH may be somewhat mitigated by proper design and careful implementation of the policy. As will be further explored in Chapter 10, the extent of the impact of SWH on the economy and the labour market will hinge on the policy formulation and economic circumstances at the time of implementation, which will in turn affect the ability of the labour market to adjust to the changes. In any case, only with sustained economic growth can our citizens enjoy a higher standard of living and support a larger proportion of retired and elderly people foreseen in the future.

[144] The proportion of elderly persons aged 65 and above rose from 11.6% in 2001 to 13.9% in 2011. It is expected to climb up gradually to around 30% in 2039 according to the 2009-based Population Projections.

CHAPTER 9

OVERVIEW OF THE WORKING HOURS SITUATION IN HONG KONG

9.1 After analysing Hong Kong's long working hours from a macroeconomic perspective, this Chapter offers a micro-level analysis of the working hours situation.

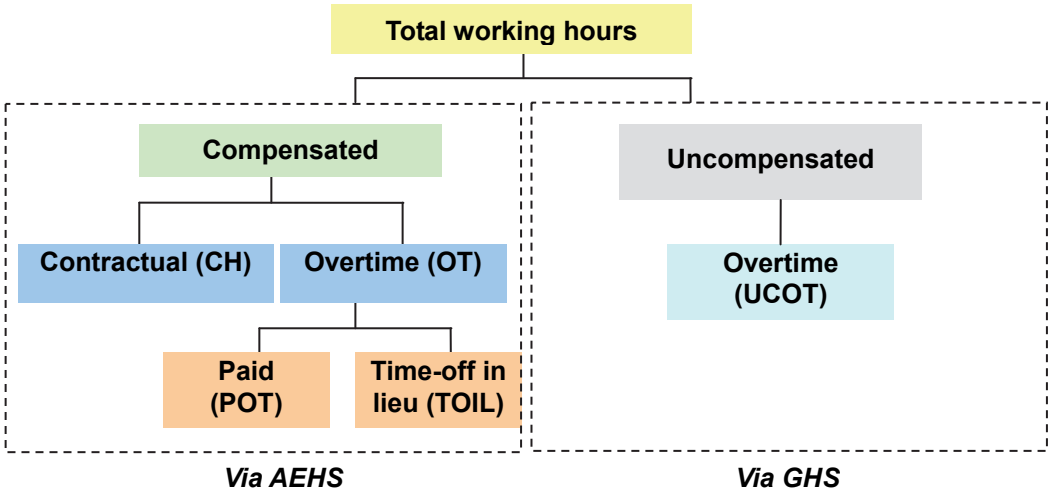
Components of Working Hours and Available Surveys

9.2 Understanding working hours is no easy task, as this relates not only to the vast and complex labour market dynamics, but is also affected by the unique business nature of different sectors, skill level of the workforce, individuals' propensity to work, etc. To facilitate a concise and focused analysis, the key components of working hours will be analysed through a holistic approach.

9.3 Working hours can be dichotomised by whether the hours are compensated or not. The former comprises contractual working hours (CH) and compensated overtime, including more specifically paid overtime (POT) and overtime recompensed by time-off in lieu (TOIL). The latter is the remaining working hours without any compensation (UCOT). **Figure 9.1** depicts these components of working hours in a schematic diagram.

9.4 There is no single regular survey in Hong Kong collecting comprehensive statistics regarding all categories of working hours defined above. In view of data limitations, statistics of working hours are sourced from two regular surveys, namely AEHS and GHS, both conducted by C&SD. While AEHS gathers statistics on the compensated working hours components from establishments, GHS collects data on uncompensated working hours via supplementary enquiries from households. All hours presented are estimated on a weekly basis unless otherwise specified.

Figure 9.1: Components of working hours

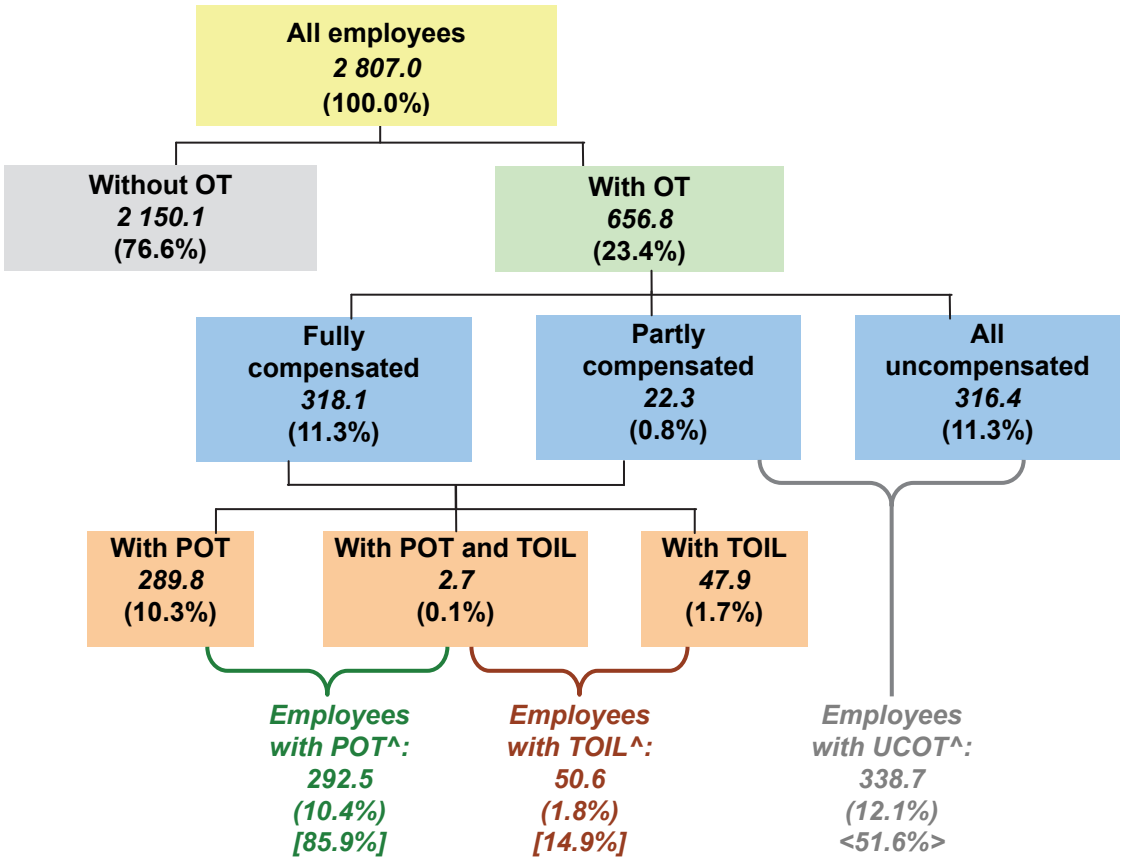


9.5 In order to weave an overall picture to facilitate working hours policy deliberation, the pattern of total working hours of employees[145] in Hong Kong is estimated by stacking different building components of working hours from the two surveys, so that a complete distribution of total working hours by socio-economic attribute can be analysed. The data set is then used to conduct the cost impact assessment of SWH implementation in Chapter 10. A detailed description and comparison of the two surveys, the statistical definition of working hours, together with the methodology of estimating total working hours are presented in **Appendix 3**.

9.6 Of the 2 807 000 employees in 2011, it is estimated that 656 800 (23.4% of all employees) performed overtime work. Among them, 340 400 (51.8%) had their overtime work compensated by either POT or TOIL, while the remaining 316 400 (48.2%) received no compensation at all. For those with compensation specifically, 292 500 employees (85.9%) had POT and 50 600 employees (14.9%) had TOIL as compensation for their overtime work. On the other hand, the number of employees with UCOT (including those with partial compensation) was higher at 338 700 or 51.6% of those with overtime work (**Figure 9.2**). The socio-economic characteristics of these employees and distribution of the working hours components will be discussed in later sections.

[145] Unless otherwise specified, statistics on employees in Chapters 9 and 10 exclude live-in domestic helpers and government employees. Please refer to the Glossary for details of the definition of employees.

Figure 9.2: Summary of number of employees ('000) by working hours component



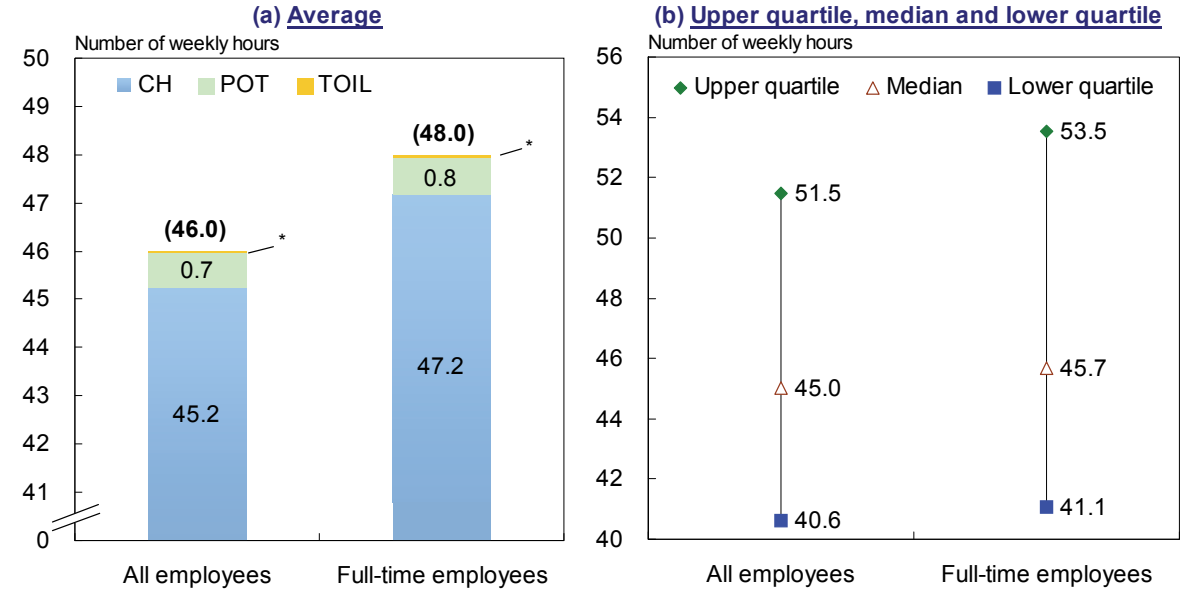
Notes: (^) These 3 groups of employees are not mutually exclusive. For instance, some employees may have both TOIL and UCOT.
Figures in brackets denote the proportion to all employees.
Figures in square brackets denote the proportion to employees with compensated overtime work.
Figures in arrow brackets denote the proportion to employees with overtime work.

Sources: 2011 Annual Earnings and Hours Survey and Aug-Oct 2011 General Household Survey, C&SD.

Compensated Working Hours

9.7 In 2011, the average and median weekly compensated working hours for all employees, i.e. CH plus POT and also TOIL, were 46.0 and 45.0 hours respectively, while the corresponding figures for full-time employees were higher at 48.0 and 45.7 hours. Analysed by component, the average CH for all employees and full-time employees were 45.2 and 47.2 hours respectively, accounting for the largest portion of the compensated working hours (**Figure 9.3** and **Tables A4.1** and **A4.2** in **Appendix 4**).

Figure 9.3: Compensated working hours - key statistics



Notes: (*) Less than 0.05 hour.
Figures in brackets denote the average compensated working hours in total.
Source: 2011 Annual Earnings and Hours Survey, C&SD.

Contractual Working Hours

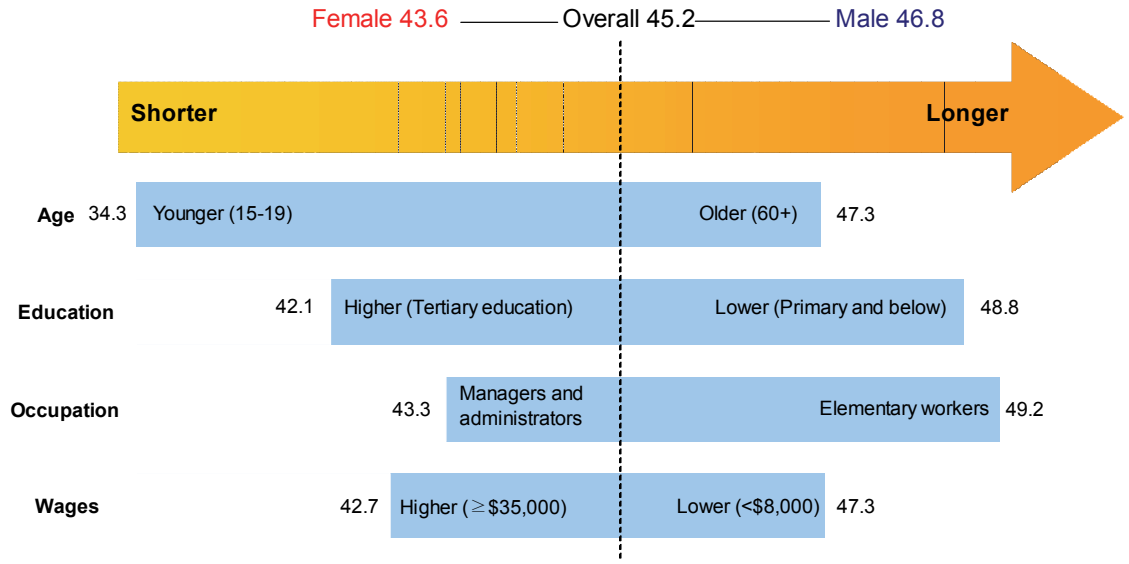
9.8 CH[146] are the number of hours which an employee commits to work for his employer according to the terms of employment contract, or with the agreement or at the direction of the employer. It can be interpreted as a regular working hours component that reflects the general working time situation of an employee, not being affected by short-term business fluctuations.

9.9 In 2011, the weekly CH averaged at 45.2 hours. The distribution of CH by socio-economic attribute is summarised in **Figure 9.4** and detailed in **Tables A4.3** and **A4.4** in **Appendix 4**. Average CH for males (46.8 hours) was clearly longer than that of females (43.6 hours), conceivably owing to women's generally heavier family-care responsibilities and higher incidence of part-time employment. In terms of age, a generally increasing CH trend is observed both in males and females over the life-cycle.

146 The definition of CH follows that under the MWO. Meal breaks are included when regarded as working hours according to the employment contract or agreement with the employer. Please refer to the Glossary for details.

9.10 Workers with lower educational attainment and lower skill level generally worked for longer CH. For example, employees with primary or below education had an average of 48.8 hours per week, appreciably higher than those of employees with tertiary education (42.1 hours). Similarly, lower-skilled employees, such as elementary workers and plants and machine operators contractually worked much longer than clerks or those in the higher-skilled segment.

Figure 9.4: Average contractual working hours by socio-economic attribute



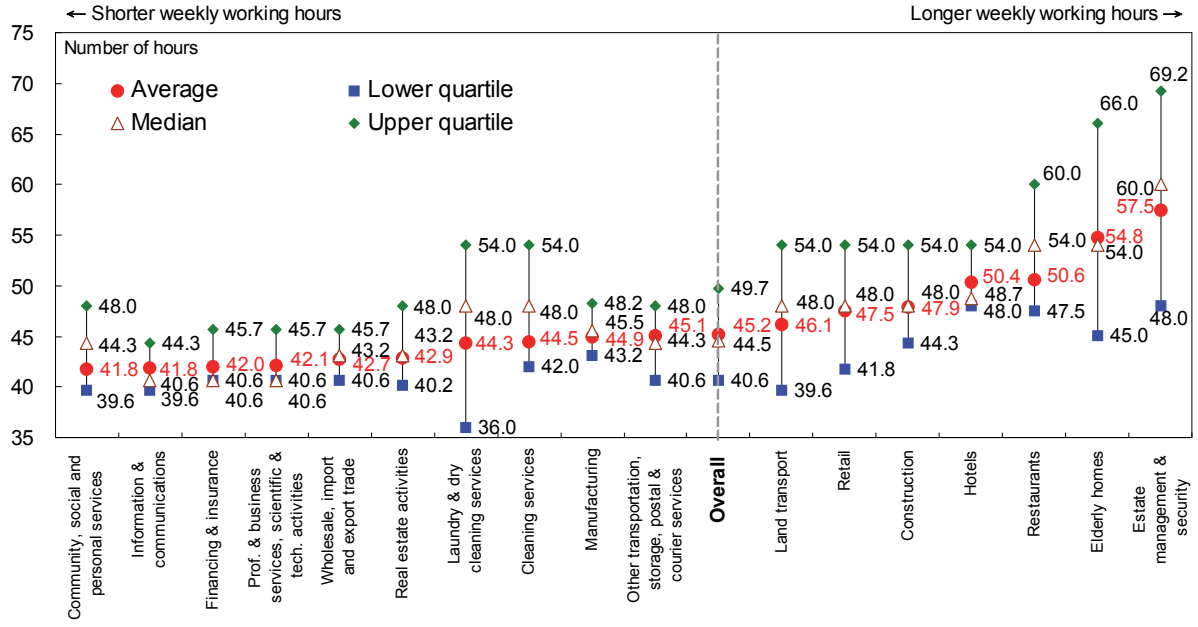
Source: 2011 Annual Earnings and Hours Survey, C&SD.

9.11 Full-time employees with lower wages in general have longer CH than those with higher wages. For example, the average weekly CH for full-timers with monthly wage below $8,000 in 2011 was 47.3 hours, which was clearly longer than that of 42.7 hours for employees with monthly wage of $35,000 and above.

9.12 Analysed by economic sector, labour-intensive service sectors such as estate management and security, elderly homes and restaurants reported relatively long CH. In particular, the average weekly CH of estate management and security, and elderly homes were 57.5 and 54.8 hours respectively, significantly longer than the overall average of 45.2 hours (**Figure 9.5**).

9.13 In contrast, sectors such as community, social and personal services, information and communications, financing and insurance, professional and business services, scientific and technical activities, wholesale, import and export trade, and real estate activities had shorter average CH of less than 43 hours per week. However, their total working hours can be longer after taking into account overtime work as illustrated in **Table A4.8** in **Appendix 4**.

Figure 9.5: Contractual working hours by selected sector - key statistics



Source: 2011 Annual Earnings and Hours Survey, C&SD.

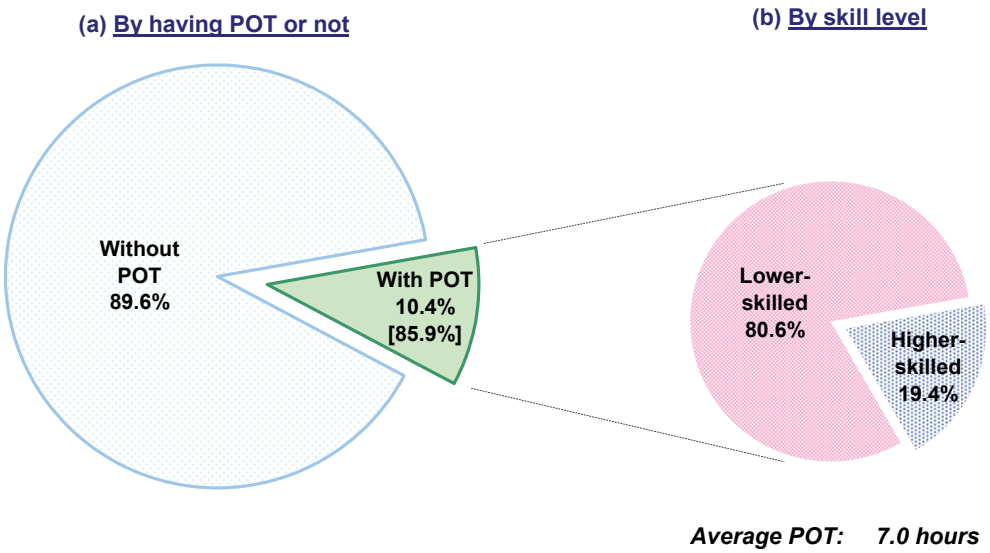
9.14 A closer examination of sectors with longer average CH shows that working hours in various quartiles were nearly all higher than the corresponding levels of the overall workforce. The upper quartiles of weekly CH for all of the sectors in question were quite high at 54 hours or more. In particular, employees engaged in estate management and security, as well as elderly homes were having the longest CH in the upper quartile, at 69.2 and 66.0 hours respectively.

Paid Overtime Hours

9.15 Overtime work is usually considered as a relatively low transaction cost solution (as compared to new recruitment) for firms to temporarily increase labour inputs when business needs arise, and is common in many economic sectors in Hong Kong. In 2011, 85.9% (292 500) of

employees with compensated overtime work had POT of 7.0 hours per week on average, and most of them were males (over 70%) and lower-skilled workers (over 80%) (**Figure 9.6**, and **Table A4.5** in **Appendix 4**). Paid overtime work is welcomed by most low-paid workers as they can enjoy a higher monthly salary through such work.

Figure 9.6: Proportion of employees with POT by skill level

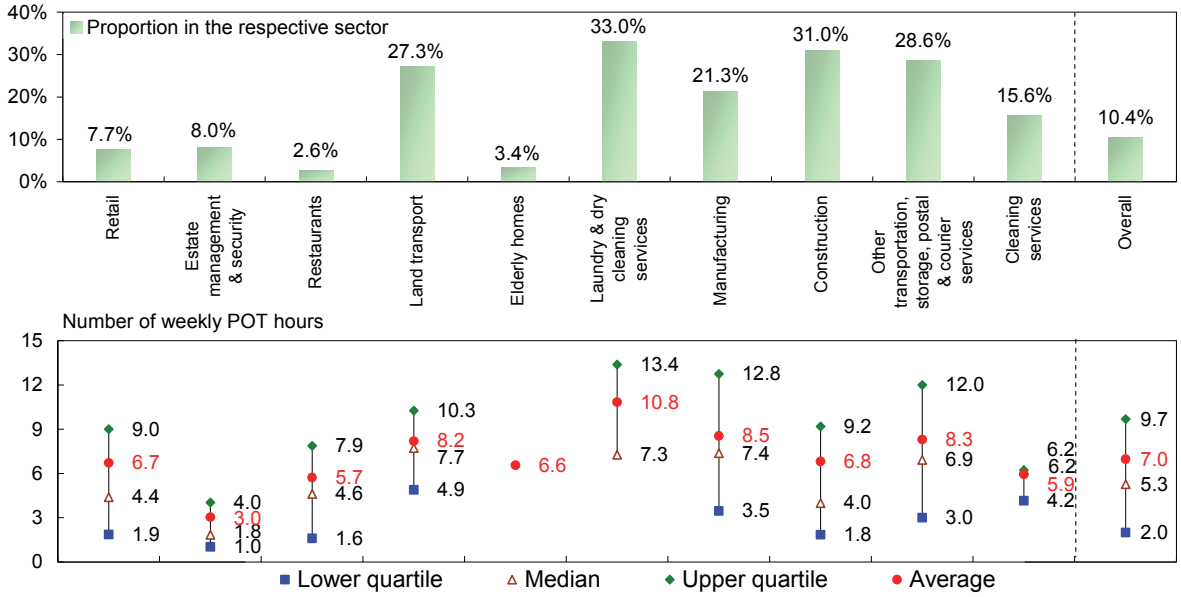


Note: Figures in square brackets denote the proportion to employees with compensated overtime work.
Source: 2011 Annual Earnings and Hours Survey, C&SD.

9.16 Consistent with the occupational analysis, paid overtime work is a more commonly adopted business practice in laundry and dry cleaning services, construction, transport-related sectors, and manufacturing, where a large proportion of lower-skilled employees are engaged. Their corresponding average numbers of POT hours were also the longest among other sectors (**Figure 9.7**).

9.17 Of the employees with POT, the lower and upper quartiles for POT were 2.0 and 9.7 hours per week respectively. Focusing on the upper band reveals that around 25% of the employees in question had rather long weekly POT of at least 9.7 hours. In sectors such as laundry and dry cleaning services, and manufacturing, the respective figures were even higher, at 13.4 and 12.8 hours (**Figure 9.7**).

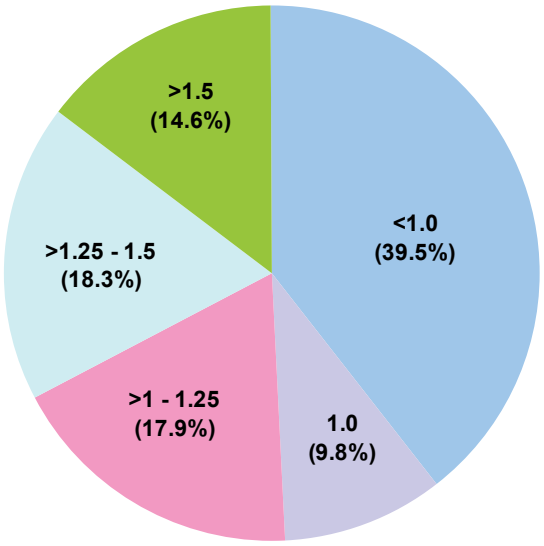
Figure 9.7: Proportion of employees with POT by selected sector



Note: Lower quartile of laundry and dry cleaning services and the lower/upper quartiles and median of elderly homes are not released owing to relatively large sampling error.
Source: 2011 Annual Earnings and Hours Survey, C&SD.

9.18 Concerning the overtime pay rate offered by employers, 9.8% of the employees with POT had their overtime work remunerated at a rate equal to their normal pay. While 39.5% were compensated at less than their normal pay[147], more than half (50.7%) had overtime pay rates of over 1.0 time (**Figure 9.8**).

Figure 9.8: Proportion of employees with POT by overtime pay rate



Note: Overtime pay rate is represented by the multiple of the employee's normal pay, i.e. 1.5 represents the employee is compensated at 1.5 times of his/her normal pay.
Source: 2011 Annual Earnings and Hours Survey, C&SD.

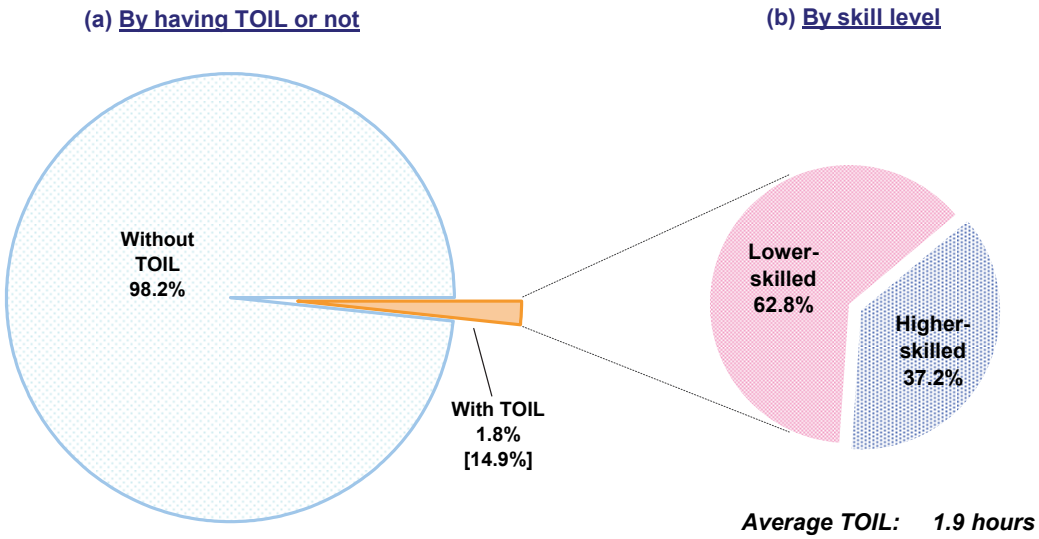
147 Overtime pay rate less than the normal rate may exist in certain types of overtime arrangements, e.g. overtime work compensated on an agreed lump-sum overtime allowance or remunerated on basic rate.

9.19 Analysed by sector, community, social and personal services (30.5%), and construction (29.2%) had relatively high proportions of employees with higher overtime pay rates (over 1.5 times of the normal rate). In terms of occupation, craft workers had a high proportion (34.0%) of such employees. On the other hand, employees with overtime pay rates less than the normal rate were more commonly found in retail (61.3%), manufacturing (48.1%), other transportation, storage, postal and courier services (44.1%), and land transport (37.3%).

Working Hours with Time-off In Lieu

9.20 As regards employees with overtime hours being compensated by TOIL, only 14.9% (50 600) of employees with compensated overtime work had TOIL over the wage period, with an average of 1.9 hours per week only (**Figure 9.9**).

Figure 9.9: Proportion of employees with TOIL by skill level



Note: Figures in square brackets denote the proportion to employees with compensated overtime work.
Source: 2011 Annual Earnings and Hours Survey, C&SD.

9.21 Among this relatively small number of employees reporting TOIL, 62.8% of them were lower-skilled, mainly engaged as service and shop sales workers (33.6%) and working in the community, social and personal services (47.9%), and retail (13.3%) sectors (**Table A4.6** in **Appendix 4**).

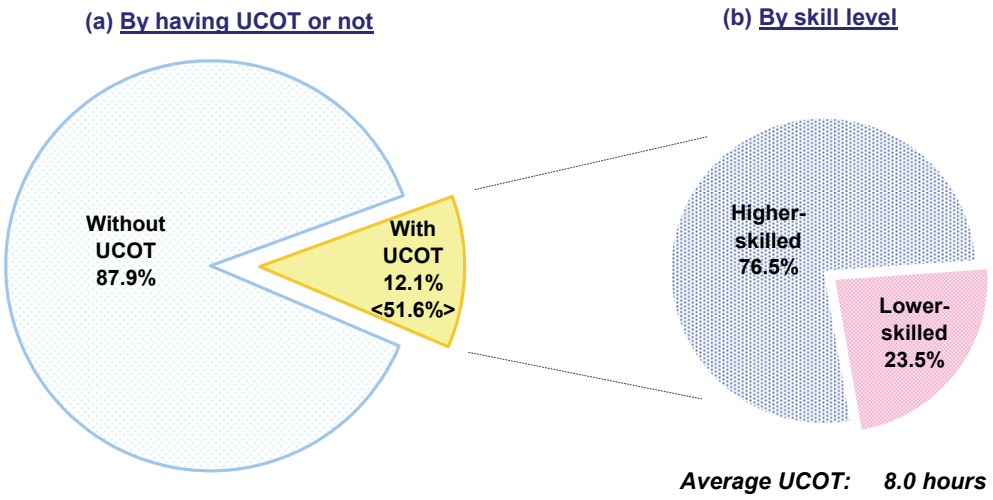
Uncompensated Overtime Hours

9.22 In any discussion on working hours, neglecting UCOT can possibly lead to an under-estimation of working hours, especially in certain sectors or occupations where UCOT is common. Because of the limitations in collecting this information via the establishment survey, supplementary enquiry on UCOT was conducted via GHS.

9.23 However, it is important to note that including UCOT in total working hours is often controversial and fraught with problems. For instance, some employees may be required by contract to work outside normal working hours under certain circumstances and it is arguable if this constitutes overtime. Also, some employers may require their employees to complete their tasks by certain time without specifying whether the latter needs to work beyond the normal working hours. Obtaining working hours data solely from employees may not be able to reflect the whole picture, as uncompensated working hours are difficult to define and may vary among employees with different standards and concepts on hours of work. Some employees may work without compensation voluntarily owing to business needs, personal career investment, job retention, and signalling of motivation, commitment, productivity, or loyalty, etc. Therefore, statistics regarding UCOT must be interpreted carefully subject to these caveats.

9.24 In 2011, around 51.6% (338 700) of employees with overtime work had their overtime not compensated. The average weekly UCOT among them was 8.0 hours (**Figure 9.10**). The socio-economic characteristics of these employees were distinctly different as compared to those with compensated overtime. In particular, they were mainly higher-skilled workers (76.5%), including managers, administrators and professionals (**Table A4.7** in **Appendix 4**).

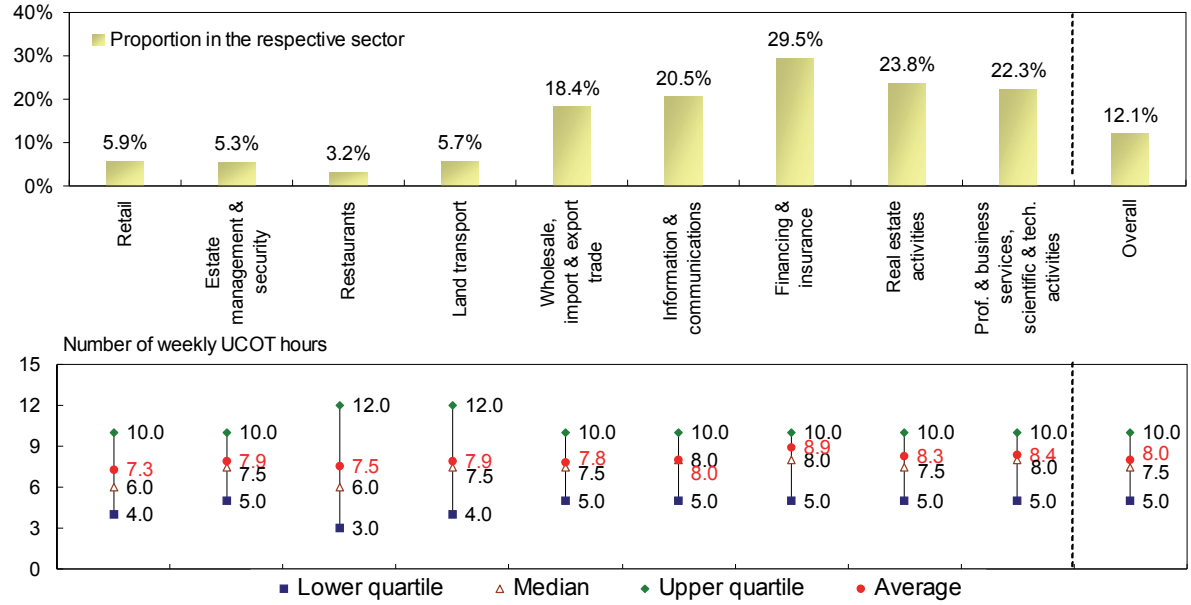
Figure 9.10: Proportion of employees with UCOT by skill level



Note: Figures in arrow brackets denote the proportion to employees with overtime work.
Sources: 2011 Annual Earnings and Hours Survey and Aug-Oct 2011 General Household Survey, C&SD.

9.25 Hence, it is not surprising to see that the economic sectors common with uncompensated overtime work are in stark contrast to those identified with more incidence of paid overtime work. Specifically, visibly higher proportions of employees working with UCOT were mainly found in high value-added service sectors, such as financing and insurance, real estate activities, professional and business services, and information and communications. Their average hours of UCOT could be as high as 8.9 hours per week (**Figure 9.11**).

Figure 9.11: Proportion of employees with UCOT by selected sector



Note: Numbers of employees with UCOT in elderly homes and laundry and dry cleaning services are not released owing to relatively large sampling error.

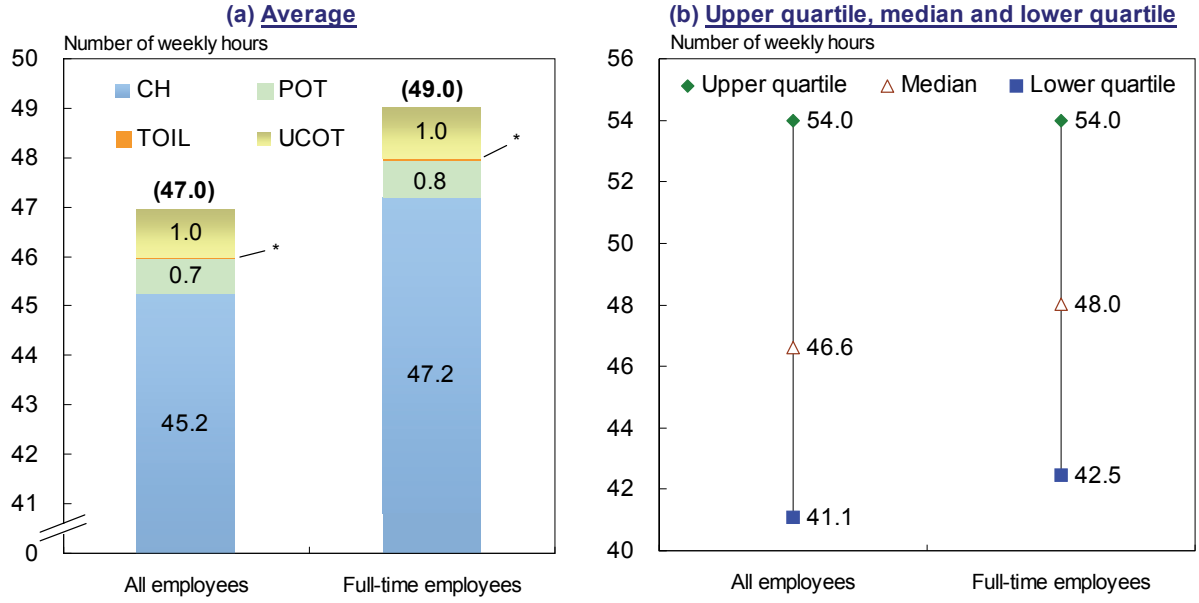
Sources: 2011 Annual Earnings and Hours Survey and Aug-Oct 2011 General Household Survey, C&SD.

Estimated Total Working Hours

9.26 Merging the working hours components sourced from AEHS and GHS, we can put together a fuller picture on the distribution of total working hours of Hong Kong's employees in 2011. The average weekly total working hours[148] were estimated at 47.0 hours, with the median at 46.6 hours. For full-time employees, the corresponding figures were higher, at 49.0 and 48.0 hours (**Figure 9.12**, and **Tables A4.8** and **A4.9** in **Appendix 4**).

148 The estimated total working hours figures are unsuitable for cross-national comparisons because of national differences in statistical methodology. In particular, many working hours statistics are based on establishment-based surveys while the estimated total working hours figures in Hong Kong are based on the merging of working hours components from AEHS and GHS.

Figure 9.12: Estimated total working hours - key statistics

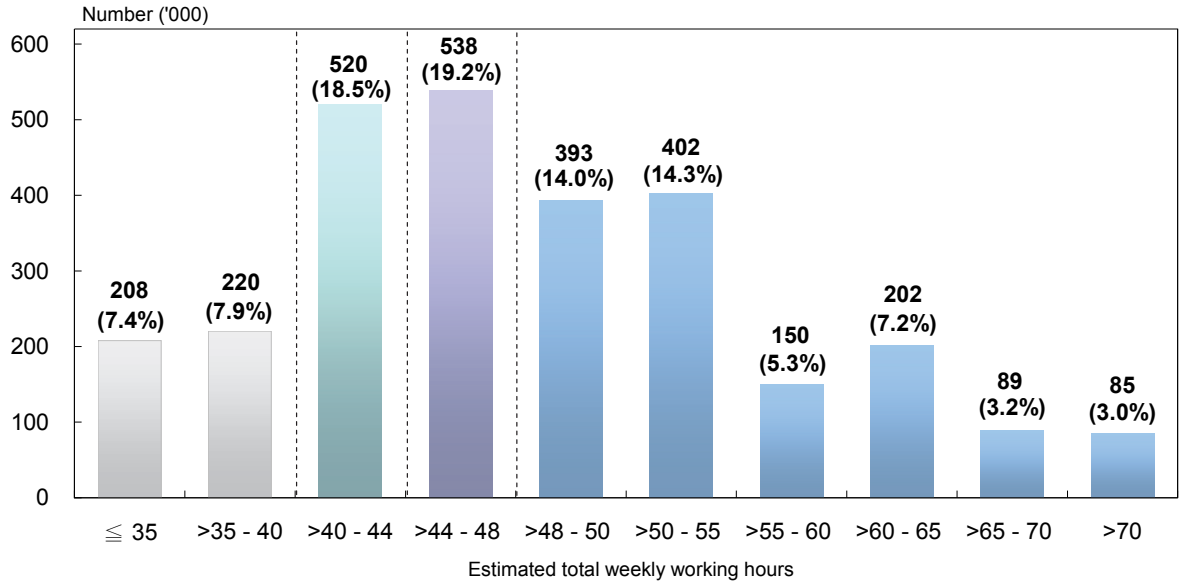


Notes: (*) Less than 0.05 hour.
Figures in brackets denote the average estimated total working hours.
Sources: 2011 Annual Earnings and Hours Survey and Aug-Oct 2011 General Household Survey, C&SD.

9.27 Analysed by component of working hours, CH constituted the major part of the average total working hours of all employees, at 45.2 hours (47.2 hours for full-timers), followed by UCOT (1.0 hour) and POT (0.7 hour).

9.28 The most common total working hours bands in 2011 were "over 40 to 44 hours" and "over 44 to 48 hours", each accounting for around one-fifth (18.5% / 520 400 and 19.2% / 538 300 respectively) of all employees. Around 7.4% (207 700) of employees worked no more than 35 hours per week, most probably because they are part-time workers. Another 10.3% (290 400) worked between over 60 to 70 hours per week. Although accounting for a small proportion of the overall population, it should be noted that 3.0% (84 700) had very long hours of over 70 hours of work per week, and the majority of them were 2-shift security guards (**Figure 9.13**).

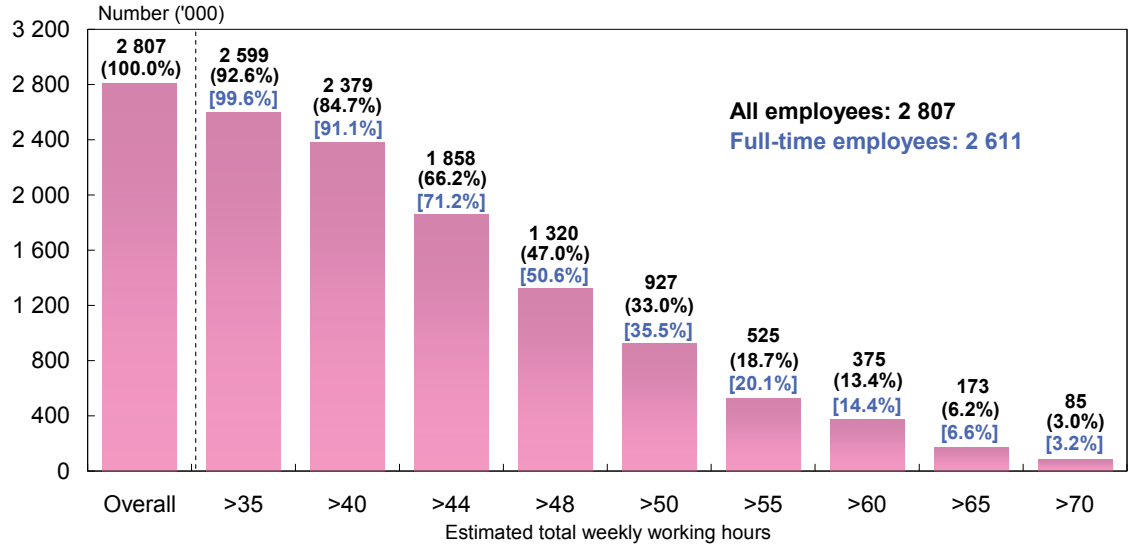
Figure 9.13: Number of employees by distribution of estimated total working hours



Note: Figures in brackets denote the corresponding proportion to all employees.
Sources: 2011 Annual Earnings and Hours Survey and Aug-Oct 2011 General Household Survey, C&SD.

9.29 **Figure 9.14** shows the cumulative distribution of employees by total number of working hours. Most of the employees (2 378 900) worked more than 40 hours a week, representing 84.7% of all employees or 91.1% of full-time employees. The corresponding figures were still high even for those working more than 48 hours (1 320 200, or 47.0% of all employees and 50.6% of full-time employees) (**Table A4.10** in **Appendix 4**).

Figure 9.14: Number of employees by cumulative distribution of estimated total working hours

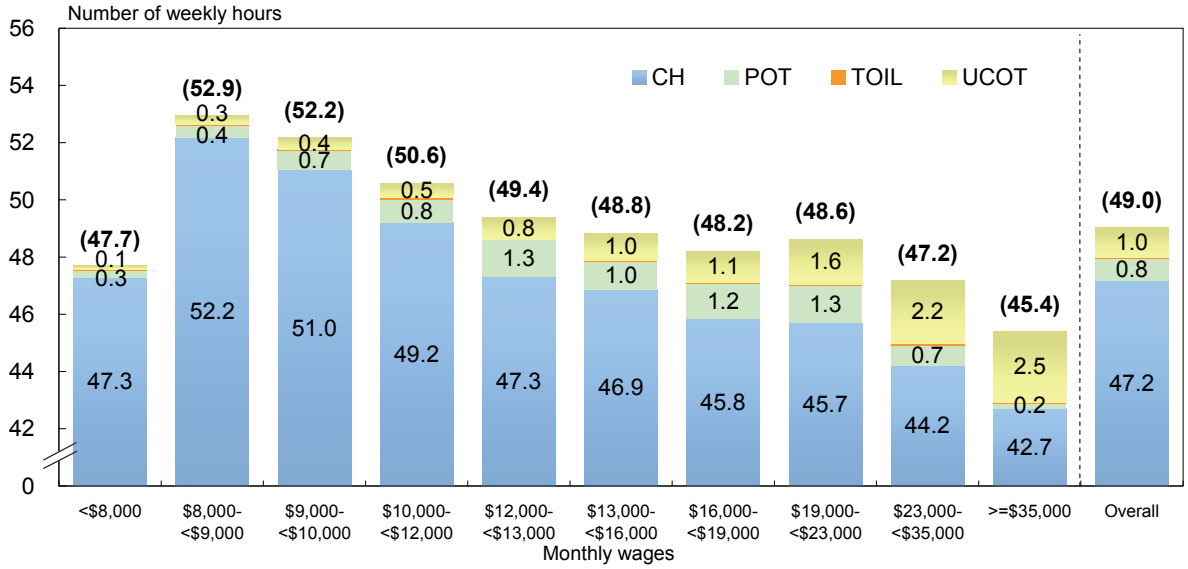


Notes: Figures in brackets denote the proportion to all employees.
Figures in square brackets denote the proportion to all full-time employees.
Sources: 2011 Annual Earnings and Hours Survey and Aug-Oct 2011 General Household Survey, C&SD.

Working Hours and Wages

9.30 An analysis of working hours in terms of monthly wage groups shows that lower-income workers in general tend to work longer hours. Looking at the detailed components of working hours in each wage group, it is observed that the pattern was similar to the findings on occupational categories which are believed to be strongly associated with wage levels. In particular, full-time employees in the lower-income groups tend to work much longer compensated working hours, while those in the upper-end tend to have more UCOT (**Figure 9.15**).

Figure 9.15: Average estimated total working hours of full-time employees by distribution of monthly wages



Note: Figures in brackets denote the average estimated total working hours.
Sources: 2011 Annual Earnings and Hours Survey and Aug-Oct 2011 General Household Survey, C&SD.

Employees and Sectors with Long Working Hours

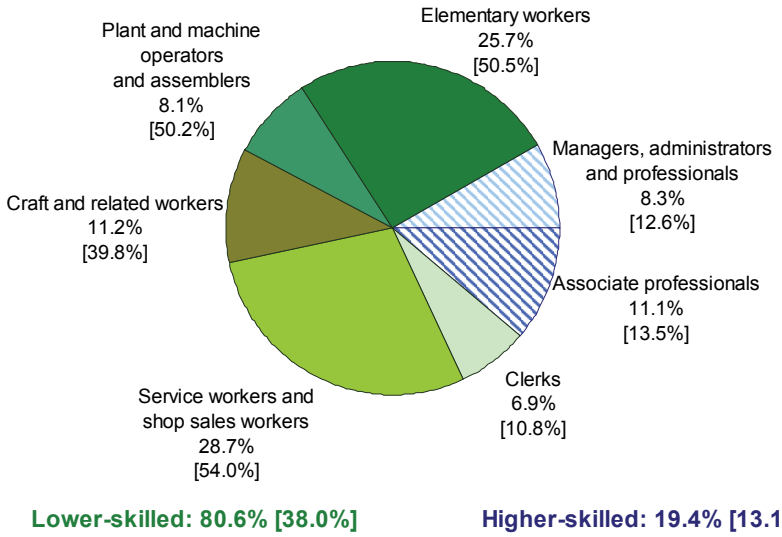
9.31 To pave the way for the discussion on cost impacts of SWH in Chapter 10, it would be useful to identify sectors which would likely be more affected by the introduction of SWH – the so-called "long-working-hours sectors" (LWHS). Although it is difficult to define "long-working-hours", a crude reference is made to the weekly working hours at the upper quartile of full-time employees, i.e. 54.0 hours.

9.32 In 2011, 725 400 employees (27.8% as a proportion of full-time employees) worked 54 hours or more per week. In consonance with the previous discussion, most of them were older males with lower educational attainment and lower skill level. Analysed by occupational group, over half of the service and shop sales workers, elementary workers, and plant and machine operators were working long hours (**Figure 9.16** and **Table A4.11** in **Appendix 4**).

9.33 A given sector would reasonably be described as an LWHS if it employs a comparatively large number or a high proportion of employees working long hours. It should, however, be noted that there are long-working-hours employees engaged in sectors other than those LWHS and, conversely, a worker engaged in LWHS does not necessarily

work for long hours.

Figure 9.16: Proportion of employees working 54 hours per week or more by occupation



Note: Figures in square brackets refer to the proportions of employees expressed as % of full-time employees in the respective occupational groups.
Sources: 2011 Annual Earnings and Hours Survey and Aug-Oct 2011 General Household Survey, C&SD.

9.34 **Table 9.1** lists the top six sectors with distinctly high proportion or number of employees working 54 hours or more. These sectors are generally labour-intensive service sectors, namely: retail, estate management and security, restaurants, land transport, elderly homes, and laundry and dry cleaning services. Besides, the average working hours of these sectors were top on the list, especially estate management and security (59.0 hours) and elderly homes (56.6 hours), as against the average of all sectors at 49.0 hours.

Table 9.1: Make-up of employees within the LWHS

	Full-time employees		Employees working 54 hours or more		Average estimated total working hours (full-time)
	Number ('000)	% Share in total	Number ('000)	As % of full-time employees within each sector	
Long-working-hours sectors (LWHS)	**688.2**	**26.4**	**388.8**	**56.5**	**54.6**
(i) Retail	*228.9*	*8.8*	*104.5*	*45.7*	*52.3*
(ii) Estate management and security	*136.8*	*5.2*	*88.0*	*64.3*	*59.0*
(iii) Restaurants	*185.1*	*7.1*	*127.1*	*68.7*	*55.7*
(iv) Land transport	*114.9*	*4.4*	*56.4*	*49.1*	*51.8*
(v) Elderly homes	*18.0*	*0.7*	*10.0*	*55.6*	*56.6*
(vi) Laundry and dry cleaning services	*4.5*	*0.2*	*2.8*	*61.6*	*53.1*
Non-LWHS	**1 922.3**	**73.6**	**336.6**	**17.5**	**47.0**
All sectors	**2 610.5**	**100.0**	**725.4**	**27.8**	**49.0**

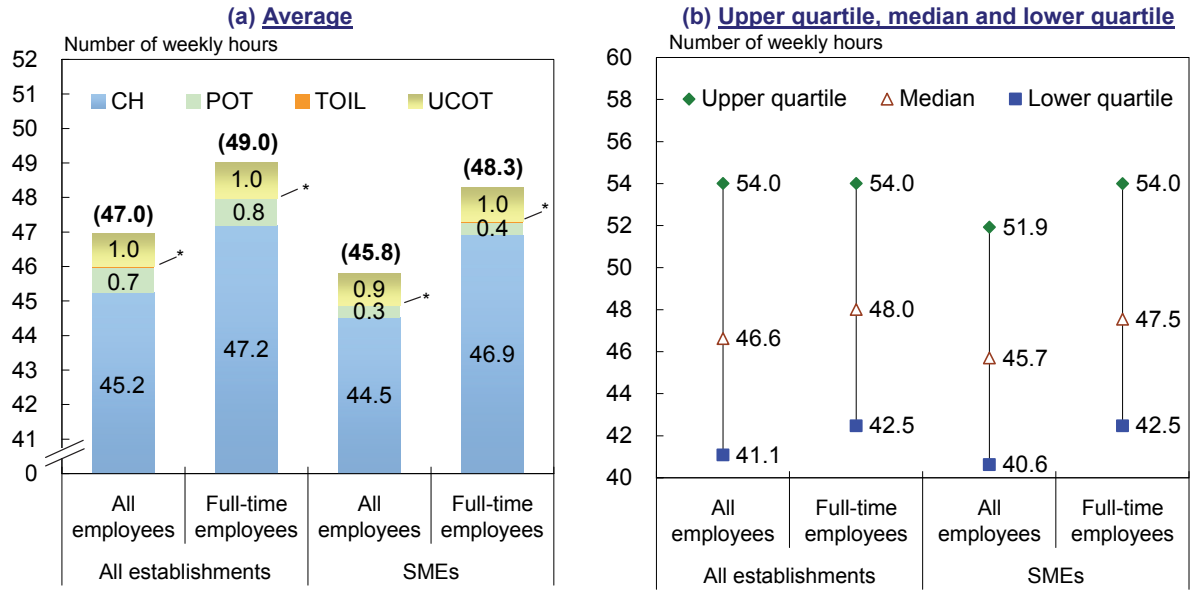
Sources: 2011 Annual Earnings and Hours Survey and Aug-Oct 2011 General Household Survey, C&SD.

9.35 In 2011, LWHS as a whole engaged slightly more than a quarter (26.4% or 688 200) of full-time employees and had a high proportion of employees (56.5% or 388 800) working at least 54 hours per week, much higher than the 27.8% of the overall and the 17.5% in the non-LWHS. Among the LWHS, restaurants (68.7%), and estate management and security (64.3%) had the highest corresponding proportions (**Table 9.1**).

Working Hours in SMEs

9.36 Analysis by establishment size shows a similar distribution of working hours for SMEs when compared to the overall situation. In 2011, 45.7% of all employees were hired by SMEs. Employees in SMEs on average worked 45.8 hours per week, slightly shorter than the overall average of 47.0 hours. Full-timers in SMEs had an average work week of 48.3 hours, as against the 49.0 hours in all establishments (**Figure 9.17**).

Figure 9.17: Estimated total working hours by size of establishments - key statistics



Notes: (*) Less than 0.05 hour.
Figures in brackets denote the average estimated total working hours.
Sources: 2011 Annual Earnings and Hours Survey and Aug-Oct 2011 General Household Survey, C&SD.

9.37 The slightly lower average and upper quartile working hours observed for SMEs were possibly due to a higher concentration of employment in sectors with shorter working hours such as wholesale, import and export trade, and lower concentration in LWHS such as the estate management and security sector. Likewise in terms of occupation, SMEs had a lower proportion of elementary workers who usually worked longer hours.

Comments

9.38 In summary, most employees worked more than 40 hours a week, and nearly a quarter had overtime work in 2011. Among them, about half had their overtime work compensated either by POT or TOIL, while that of the remaining half was not compensated. Older workers with lower skills and less education in labour-intensive service sectors tend to have longer CH and their overtime work is often paid. On the other hand, workers with higher skills in high value-added service sectors had shorter CH, but many of them worked UCOT which considerably prolonged their total working hours.

9.39 The micro-level analysis identifies LWHS with more employees having long working hours in absolute or proportionate terms as compared to the overall economy. On this basis, the survey results suggest that six

sectors can be identified as LWHS, namely: retail; estate management and security; restaurants; land transport; elderly homes; and laundry and dry cleaning services.

CHAPTER 10

ECONOMIC IMPLICATIONS AND IMPACT ASSESSMENT

10.1 In the preceding two Chapters, the working hours situation in Hong Kong has been reviewed and analysed holistically. Despite data limitations, it is shown that the pattern and distribution of working hours depend on many factors, including the economic structure, demand and supply balance in specific segments of the labour market, business nature and diversity, and employee preferences as constrained by physical and financial conditions.

10.2 Part III concludes with an analysis of the economic and cost impact of implementing SWH. As the full set of policy parameters cannot be ascertained, and the economic and labour market conditions are constantly evolving, it should be noted that drawing precise conclusions regarding the impact of the SWH policy is not possible at this stage. Hence, an assessment in the form of scenario studies will be conducted for illustrating the variation of cost impact on doing business under different policy designs, with a view to identifying the important elements for future policy deliberation.

Implications for the Overall Economy and Labour Market

10.3 In contrast to maximum working hours policy which prohibits work beyond a specific number of hours within a certain period, SWH is a relatively more flexible regime in which employees are allowed to work overtime (usually defined as those beyond the SWH threshold), and employers are required to compensate the overtime at a statutory minimum overtime pay rate. This would nonetheless increase wage costs, if other factors such as hourly wages and working hours were to remain unchanged.

10.4 Since many employees in Hong Kong are already working relatively long hours, subject to the regime design to be preferred, a large number of employers can potentially be affected by SWH implementation and as

a result the total wage bill could increase significantly. Nevertheless, as shown by the assessment in paragraphs 10.21 to 10.31 below, the employee coverage and total wage bill increases can vary significantly under different scenarios created by different choices of policy parameters.

10.5 Conceivably, employers might adopt different strategies to offset higher wage bills, such as: (a) restructuring employment through reduced working hours so that overtime pay can be trimmed; (b) shifting the higher costs to consumers by raising product or service prices; and/or (c) reducing profit. The actual responses would depend on the design and parameters of SWH policy, as well as the economic and labour market conditions at the time of, and immediately subsequent to, implementation, which are currently unknown.

10.6 The following paragraphs therefore present a number of qualified predictions about the general impact of SWH on the economy and labour market. The results are obtained with due reference to experience from other places, as well as the deliberations of the Provisional Minimum Wage Commission when recommending the first SMW rate in Hong Kong - the most recent and relevant experience that we can take into account. Needless to say, such as-if predictions purport to illustrate the complexity of the issue, and the cost impacts must be re-assessed when more information becomes available.

Employment, Working Time and Salaries

10.7 It is often asserted that incremental working time is employer-driven, so that additional overtime pay under SWH would provide strong incentives on the part of employers to reduce working hours. In addition, since employees would then be able to better balance work and leisure, their physical and mental health could be improved. Shorter working hours may improve workers' commitment, morale and performance, and hence result in higher productivity. Employers would need to hire more workers to compensate for the lower man-hours so as to maintain output, thereby achieving the additional outcome of job sharing to boost employment. Trade unions also expect that the SWH policy should best be set in a way to at least maintain the monthly salary of affected employees so that their livelihood would not

be adversely affected alongside any reduction of working hours after policy implementation.

10.8 Whether all or any of the above outcomes will be realised would depend on the policy objectives and formulation, economic and labour market conditions at the time of implementation, and specific dynamic responses of employers and employees. Many studies in other places[149] show that the actual effects after the implementation of working time reduction policies on both productivity and employment are inconclusive. For example, it was found that some employees might intentionally prolong working hours to earn additional overtime pay. Employers, on the other hand, might be more resource conscious and consider changes in allocation of resources to boost productivity, such as replacing overtime work by part-time employment or slashing the less profitable output lines to cut manpower requirements and costs.

10.9 It is important to note that a working hours policy may in the long or short run result in changes in job positions and remuneration package as well as structural changes in working hours patterns. Additional examples illustrating this matter are available in paragraphs 10.32 to 10.45. It is shown that the change in employees' monthly salaries is inconclusive, and sometimes the outcome could even run contrary to common perception, depending on the policy design and employers' response under the prevailing economic and labour market situations.

Inflation and Competitiveness

10.10 Firms may transfer higher wage costs to output or service prices, especially when the working hours policy is implemented under tight labour market conditions which restrain the substitution of labour (in terms of headcount and working time) in the short run. If the wage bill increases are too substantial under an aggressive working hours regime, a complete transfer of incremental labour costs to consumers, even if

[149] For productivity, studies by Feldstein (1967), Craine (1973) and Leslie (1984) suggested that shorter working hours would decrease productivity. On the contrary, studies by Tatom (1980), Leslie and Wise (1980) and Hart and McGregor (1988) all concluded that shorter working hours had positive impact on productivity. As for employment, Marchand et al. (1983) estimated that the first-round effects of a reduction in working hours involved some new job creation for France. Bosch (1994) also found that the reduction in working hours led to positive effects on employment. However, study by Hunt (1999) suggested that change in hours could lead to fall in employment. In the UK, whilst White and Ghobadian (1984) found some reduction in employment in the engineering industry, Rubin and Richardson (1997) estimated the effect with an opposite direction.

possible, would add heavy pressure on inflation. This would adversely affect the purchasing power of the grassroots, undermine Hong Kong's competitiveness and, at worst, would even curtail aggregate demand and economic growth.

10.11 Corporations may also partly offset the higher wage costs by squeezing profit, especially if the additional wage bill is small. However, some SMEs may find this response difficult owing to the already thin profit margins. With little market power facing keen competition, these firms have little leeway to increase product and service prices to offset a drastic rise in business costs. Given an increasingly demanding business environment with more stringent labour regulations, less efficient and profitable firms that fail to undergo further enhancement in technology and productivity may be forced to close down or relocate their operations elsewhere.

Productivity Enhancement and Human Resources Reallocation

10.12 In the long run, firms would review factor inputs in the production process and substitute more costly labour by machinery and automation, especially if the cost impact of SWH implementation is significant. Though labour productivity may increase with new technology embodied in new capital goods, it would also exert upward pressure on the structural unemployment of Hong Kong, especially for the lower-skilled in the vulnerable groups.

10.13 When renewing contracts or hiring new staff, firms may seek to change employment terms by reducing full-time and permanent positions and increasing casual and part-time posts during peak hours or seasons. To further offset higher labour costs, reductions may have to be made to non-statutory employment benefits such as year-end payment, discretionary bonuses, free meals, free accommodation, medical benefits and training.

Market Freedom and Flexibility

10.14 While unlike maximum working hours in which a ceiling on working hours is imposed, a relatively more flexible policy like SWH would still put further restraint on business flexibility. In a small and open

economy with a linked exchange rate system like Hong Kong, labour market freedom and price and wage flexibilities are of paramount importance to cope with economic turbulence and global competition. Since SMW has already posed a wage floor which restrains the downward adjustment of wages, SWH would further constrain the upward adjustment of working hours in response to economic downturn as discussed in Chapter 8.

10.15 When both effects are added together, labour market adjustments would become more difficult and prolonged, and businesses may resort to downsizing with headcount reduction being one of the few remaining options. The adjustment of the local economy back to normal growth path after negative shocks would therefore be much longer, more costly and painful. Any working hours policy consideration thus requires careful deliberation so that Hong Kong's labour market flexibility and economic vitality are not sacrificed.

Operational Adaptations and Constraints

10.16 Some firms faced challenges in complying with SMW implementation, particularly with regard to how to count hours worked in accordance with the MWO. Especially when most of the employees are monthly-rated[150], some human resources practitioners also had to deal with operational difficulties in preparing monthly payrolls under tight deadlines towards the end of the month. Given the even larger number of employees that would be affected by a working hours regime, similar, if not greater, constraints would be put on our businesses. As the EO only requires an employer to keep the record of the total number of hours worked by the employee in a wage period if (a) SMW applies to the employee; and (b) wages payable to the employee in respect of that wage period are less than $11,500 per month, it is highly possible that most firms have not been keeping such records for the rest of their employees. As such, another round of full-scale update of the payroll system would be necessary to ensure compliance with the new legal requirement, which would further add to operational and staff costs.

[150] This is particularly common in higher-skilled employees as 98% of them were monthly-rated in 2011.

10.17 On the other hand, while reducing working hours would largely alleviate the cost pressure induced by SWH implementation, given the specialised skills and experience of administrators and professionals in firms for strategic planning, problem-solving and task management, it would not be the best response to cut their working hours or substitute them by newly hired employees. The recruitment and training may not be cost-effective, and the already severe labour shortage at the higher end also makes replacement difficult as illustrated in Chapter 8.

10.18 The above potential operational constraints may be one of the reasons why some economies have granted exemption arrangements for higher-skilled occupations when legislating for SWH. The cost impacts with exemption of these employees from the policy can be found in paragraphs 10.21 to 10.31.

Long-term Challenges of Population Ageing and Labour Shortage

10.19 Latest projections by C&SD suggest that Hong Kong is facing a serious ageing problem, with the local labour supply likely to trend downwards after 2020 when more baby-boomers reach retirement age. This trend of population ageing, coupled with the ongoing structural transformation to a high value-added and knowledge-based economy, would add pressure to the already tight labour market. As a result, Hong Kong is likely to face a manpower shortage in 2018[151]. This is especially the case for higher-skilled employees engaged in the strategic sectors such as the four pillar industries and the six industries[152] where Hong Kong enjoys advantages for further advancement.

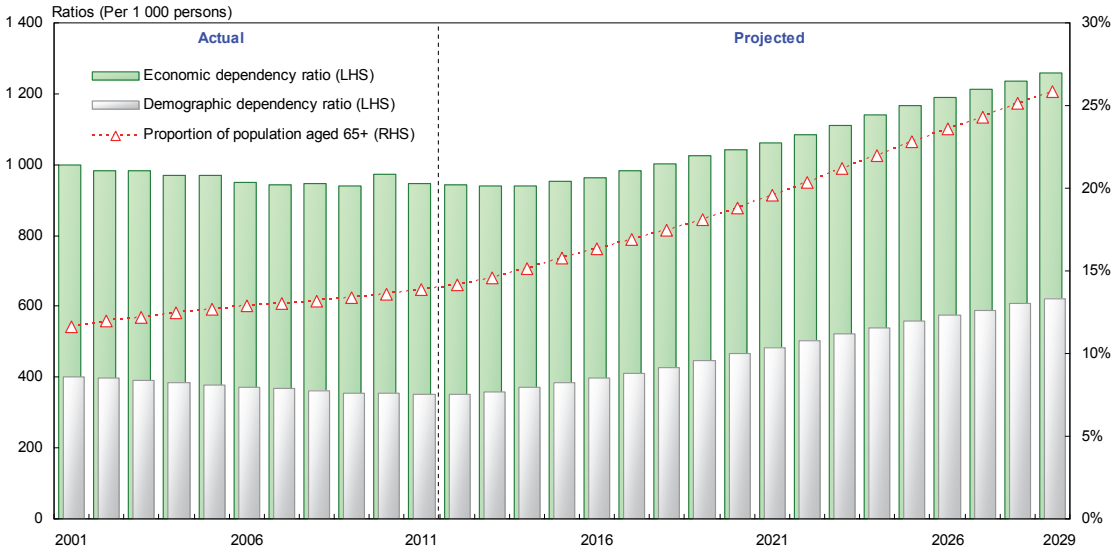
10.20 Labour shortage would be even more severe if SWH implementation further limits the labour supply (in terms of man-hours). The increasingly heavy productivity constraint in tandem with the capped working hours as well as ageing population with high dependency ratios would pose immense challenges to Hong Kong's long-term economic growth and competitiveness. Unless there is continued success in our effort to attract more talents from other places, or we can sustain very

[151] Based on findings of the recently published Manpower Projection to 2018, Hong Kong's total local manpower supply is projected to fall short of manpower requirement by 14 000 workers in 2018.

[152] The four pillar industries are trading and logistics, financial services, business and professional services, and tourism, while the six industries include cultural and creative industries, medical services, education services, innovation and technology, environmental industries, and testing and certification services.

strong productivity growth through technological advances, human capital enhancement and efficiency improvement, the problem would only become more serious over time. Although postponing the retirement age could be an option, this is likely to create other problems such as the diminished chance of promotion to our youngsters, as well as another debate on the appropriate whole-life working time of Hong Kong's workers (**Figure 10.1**).

Figure 10.1: Projected dependency ratios gradually increasing amid population ageing



Note: Demographic dependency ratio refers to the number of persons aged under 15 and those aged 65 and over per 1 000 persons aged between 15 and 64. Economic dependency ratio refers to the number of economically inactive persons per 1 000 economically active persons. Both excluding foreign domestic helpers.
Sources: Population Projections (2010-2039) and Labour Force Projections (2010-2029), C&SD.

Impact on Businesses: a Broad-brush Cost Impact Assessment

10.21 As discussed in paragraph 10.2, an assessment on cost impact can be introduced to quantify the potential increase in labour costs to firms under the SWH policy. Since Hong Kong has never experienced universal regulation of working hours, the cost impact assessment can only take the form of scenario studies based on a broad-brush approach with a set of plausible assumptions. The cost estimates will inevitably be affected by all the unknown elements as aforementioned, and readers should be mindful of the limitations when interpreting the results.

10.22 A static cost impact assessment is conducted based on three policy parameters: (a) weekly SWH threshold; (b) statutory minimum overtime pay rate for working hours beyond the SWH threshold; and (c) exemption criteria with regard to employees (**Table 10.1**). By

examining the three variations in each parameter, a total of 27 scenarios are generated. Details of the assessment methodology and assumptions are at **Appendix 5**, with results shown in **Tables A6.1 – A6.14** in **Appendix 6**.

Table 10.1: Scenarios for the cost impact assessment of SWH[153]

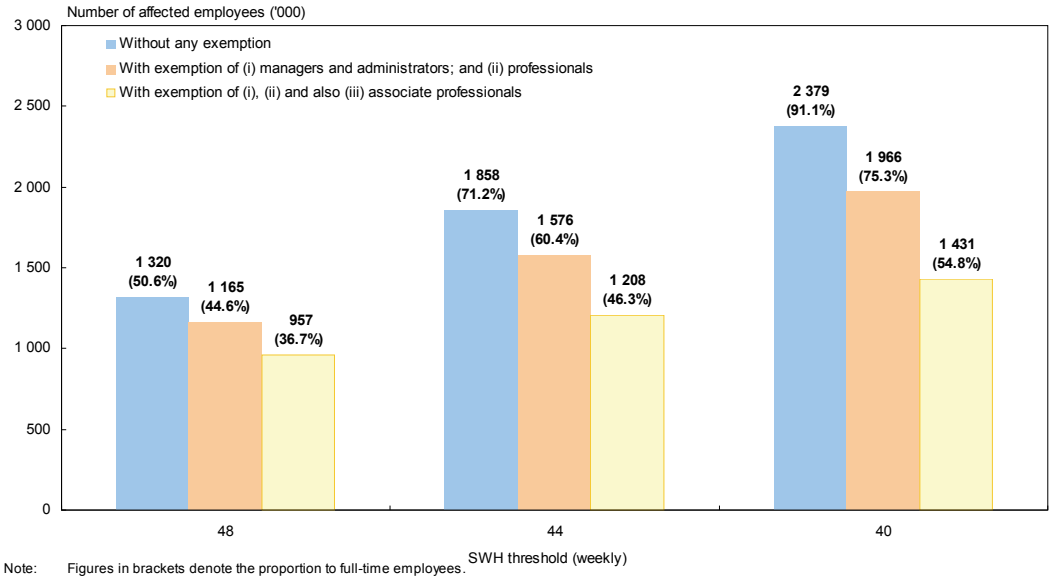
Selected Policy Parameters	Variations
(a) Weekly SWH threshold	(i) 40 hours; (ii) 44 hours; and (iii) 48 hours.
(b) Statutory minimum overtime pay rate	(i) 1.0 time of the employees' original hourly pay; (ii) 1.25 times; and (iii) 1.5 times.
(c) Exemption on employees	(i) without any exemption; (ii) with exemption of managers, administrators and professionals; and (iii) with exemption of managers, administrators, professionals and associate professionals.

Number and Proportion of Employees Involved

10.23 Without any exemption, it is estimated that with an SWH threshold of 40 hours per week, the number of affected employees would reach 2 378 900, representing 91.1% of full-time employees (**Figure 10.2**).

153 The variables in each policy parameter are selected with reference to experience in other places and current local practice (for overtime pay rate). For example, the weekly threshold of 40, 44 or 48 hours and overtime pay rate of 1.25 times and 1.5 times are adopted in different economies under study. The overtime pay rate of 1.0 time is chosen taking into account the current local practice that about 49.3% of Hong Kong employees receiving POT are paid at a rate of 1.0 time or less. As for exemption criteria, the variables chosen have made reference to the practice of a vast majority of economies studied (cf. p. 55) which adopt "occupation or job responsibility" as the exemption criteria. As the cost impact assessment is conducted based on statistics collected from AEHS and GHS, the definitions of "managers and administrators", "professionals" and "associate professionals" (details in the Glossary) are therefore in line with those used in these surveys. The job types as stated in the Glossary should not be construed as the same as any categories of employees who may be exempted under any SWH regime to be contemplated.

Figure 10.2: Number and percentage share of employees affected



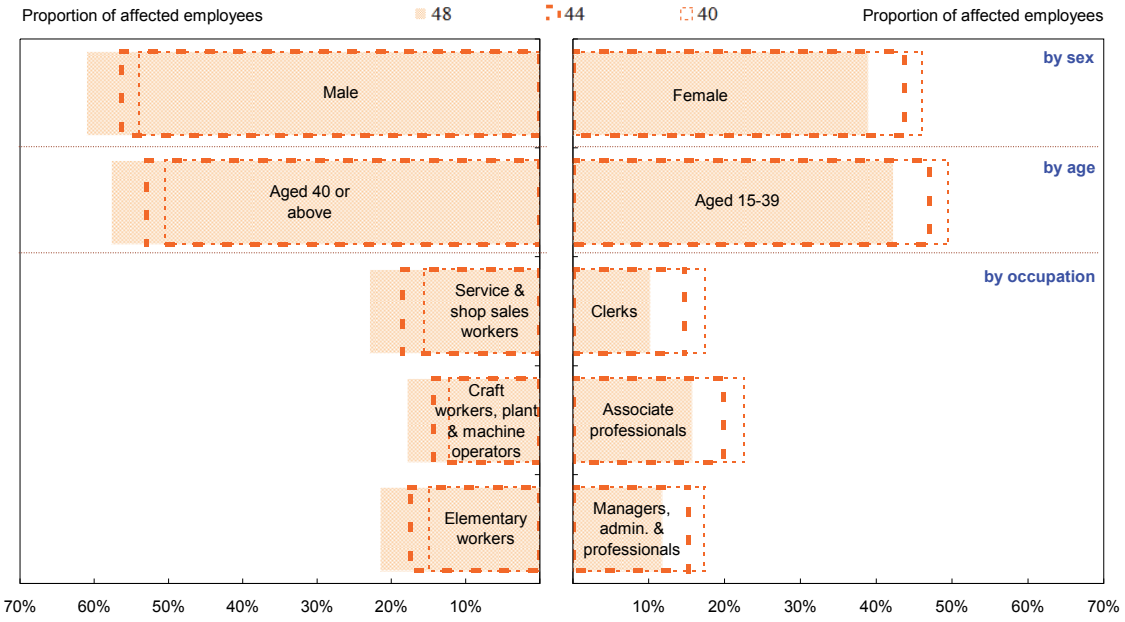
Note: Figures in brackets denote the proportion to full-time employees.
Sources: 2011 Annual Earnings and Hours Survey and Aug-Oct 2011 General Household Survey, C&SD.

10.24 If the weekly threshold is increased to 44 or 48 hours, 1 858 500 (71.2% full-time) or 1 320 200 (50.6% full-time) would be affected respectively. Given the relatively long contractual hours of Hong Kong's employees, such a broad coverage is not surprising.

10.25 It would therefore be more meaningful to analyse changes in the composition of affected employees by selected socio-economic attributes when Hong Kong moves from a lower SWH threshold to a higher one. As shown in **Figures 10.3** and **10.4**, affected employees would more likely be males of higher age groups, in the lower-skilled segment and labour-intensive sectors such as the LWHS and the construction sector. These findings are consistent with the analyses in Chapter 9 which notes that employees with such socio-economic characteristics generally worked longer hours.

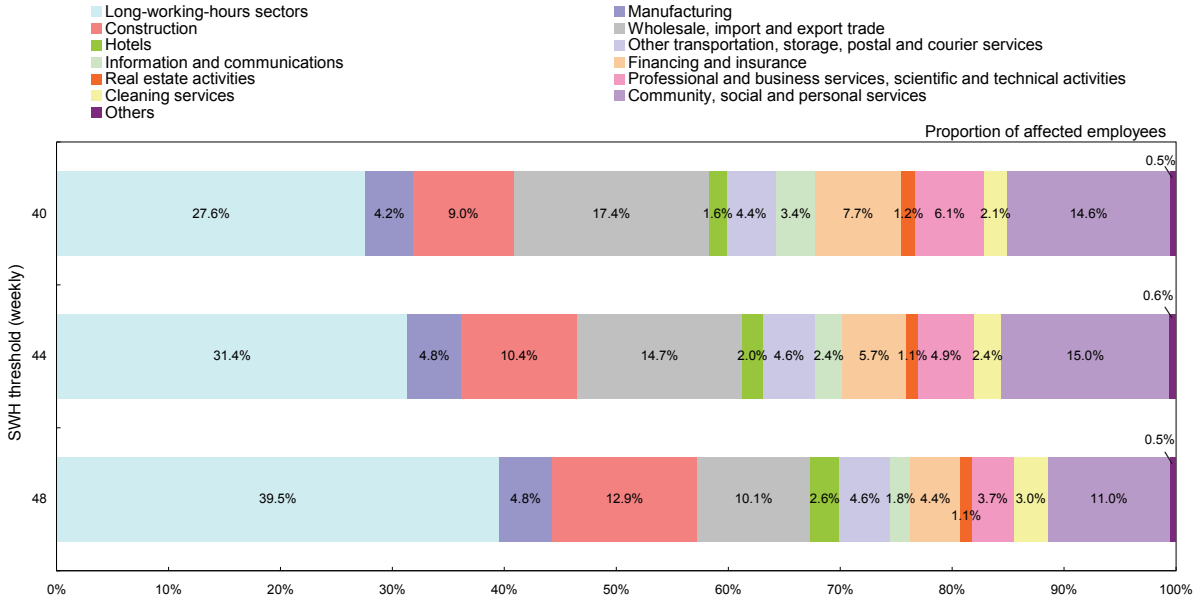
10.26 Further analysis by LWHS as defined in paragraphs 9.31 to 9.35 of Chapter 9 shows that 27.6% of the affected employees would be engaged in LWHS under a weekly SWH threshold of 40 hours, and the estimated proportion would increase further to 39.5% under a 48-hour policy regime. As for SMEs, the corresponding coverage rate is estimated to remain comparatively stable, ranging from 43.3% to 44.8% across the three thresholds.

Figure 10.3: Socio-economic attributes of affected employees by SWH threshold



Sources: 2011 Annual Earnings and Hours Survey and Aug-Oct 2011 General Household Survey, C&SD.

Figure 10.4: Proportion of affected employees by sector and by SWH threshold



Sources: 2011 Annual Earnings and Hours Survey and Aug-Oct 2011 General Household Survey, C&SD.

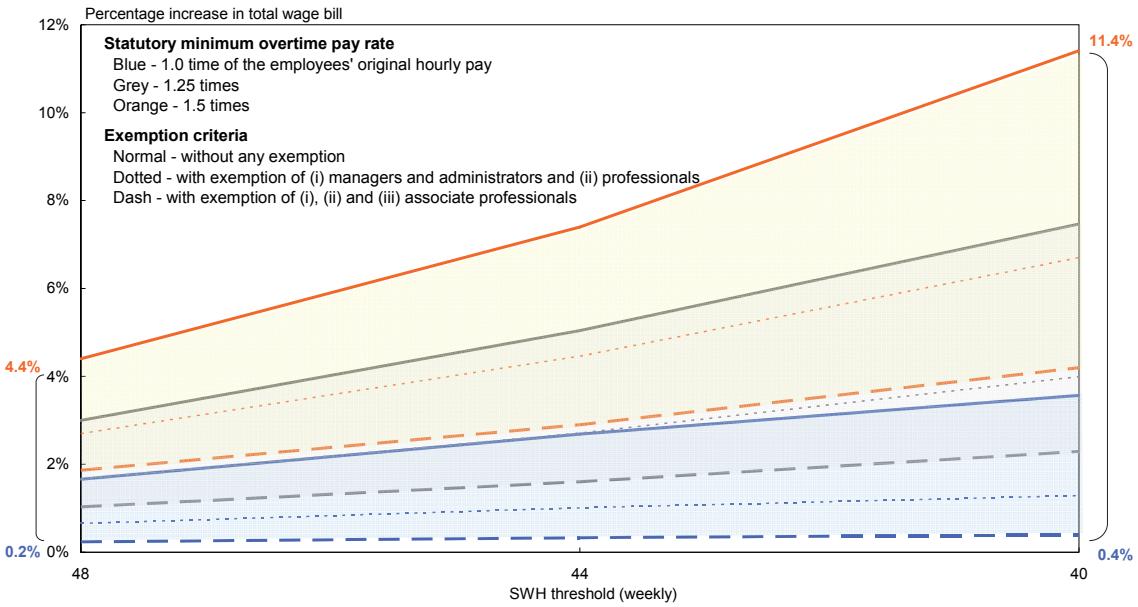
10.27 Despite results which show that the estimated number and proportion of affected employees under the three selected SWH thresholds would all be significant, it should be noted that the number of affected employees would be reduced noticeably to 957 100 - 1 430 800 (i.e. 36.7% - 54.8%

of full-time employees) if higher-skilled employees are exempted from the SWH policy. However, the number in question would still be around 5 to 8 times larger than the coverage of SMW implementation in May 2011[154].

Increase in Total Wage Bill

10.28 Similar to the large variations observed in the number of affected employees, it is estimated that the additional wage bill to employers could range from $8.0 billion per annum (1.7% of total wage bill in 2011) to $55.2 billion (11.4%) in the case of no exemption (**Figure 10.5**). The largest percentage increase would likely be found in the higher-skilled segment (such as the financing and insurance, real estate activities, and professional and business services, scientific and technical activities sectors), among which individuals earn relatively high pay and face relatively long uncompensated overtime work. For SMEs, the estimated cost impact would be lower but still significant, ranging from $2.8 billion (1.4%) to $21.4 billion (10.8%).

Figure 10.5: Percentage increase in total wage bill under different SWH scenarios



Sources: 2011 Annual Earnings and Hours Survey and Aug-Oct 2011 General Household Survey, C&SD.

10.29 If higher-skilled employees are exempted from the SWH regime, the estimated cost impact would be significantly reduced. In fact, with

[154] According to 2011 AEHS, the number of employees with hourly wage equal to $28, i.e. the initial SMW rate, was 180 600 or 6.4% of all employees.

such an exemption and with an SWH threshold of 48 hours and a statutory minimum overtime pay rate of 1.0 time of normal pay, the total wage bill would only increase by $1.1 billion (0.2%).

10.30 However, the cost impact would be greater by more than 4 times if the overtime pay rate is increased to 1.25 times of normal pay and further to almost 8 times should the overtime pay rate be increased to 1.5 times of normal pay, suggesting very high sensitivity to changes in policy parameters (**Figure 10.5**). LWHS, with a higher proportion of lower-skilled employees, would in turn naturally account more for the bulk of the increase in wage bill. As employees in LWHS, such as the retail, restaurant, and estate management and security sectors are usually low-paid, these sectors could likely be hard hit by the double blow of SWH and SMW implementation, making their business environments even more difficult. On the assumption that the weekly threshold be increased to 54 hours, without any exemption, the number of employees to be affected will be 721 200 and the estimated cost impact will range from $3.1 billion (for an overtime pay rate at 1.0), $5.8 billion (at 1.25) to $8.6 billion (at 1.5).

10.31 The above assessment suggests that the cost impact of SWH implementation can vary significantly even under combinations of only three policy parameters, which in turn highlights the complexity of the issue. Such variations will be higher when other factors are brought into play. For instance, if employers are allowed to compensate part or all of the overtime hours by time-off or holidays, or allowed to average out working hours over a longer period (say 6 months) in the calculation of weekly working hours, the estimated cost impact would be lower, in particular for sectors with distinct seasonal patterns, such as retail and construction.

Impact on Employees' Income: Illustrative Examples

10.32 An assessment of an increase in the employment earnings of affected employees under various scenarios shows that the average increase would range from 3.7% to 13.0% depending on the SWH threshold and statutory minimum overtime pay rate. In particular, employees with more uncompensated overtime (i.e. those in the higher-skilled segment) would enjoy greater pay increases provided working hours are not

reduced after SWH implementation. For example, wages of managers and administrators would increase more significantly, ranging from 7.9% to 16.0% across the scenarios.

10.33 It must be emphasised that the above assessment exercise assumes no change in overall employment, hourly wage, and working time, which would rarely be the case in reality. As already noted in paragraphs 10.3 to 10.20, employers might need to adopt various strategies to alleviate the higher wage pressure induced by the SWH policy. For example, cutting working hours would be one of the feasible and commonly adopted business practices for employers to cope with higher labour costs, while employees would also be able to enjoy a better work-life balance through shorter working hours.

10.34 Although it is currently uncertain whether the SWH policy would affect employees' income, some hypothetical examples may be useful to supplement the above static analyses and provide a more dynamic impression to facilitate further discussion. It is shown that employees' earnings could actually increase, decrease or remain unchanged, depending on the SWH formulation and the contractual arrangement between employers and employees.

10.35 The examples below mainly focus on lower-skilled employees, as the policy is likely to significantly affect their earnings and livelihood. It should be noted that the hypothetical examples under different scenarios together with the corresponding changes of earnings are constructed solely for illustrative purpose. They are understandably over-simplified[155] as compared to the payroll system in reality and as such should not be taken as any indication or guidance on the future direction of the SWH policy.

Example 1: Office Cleaner

10.36 Suppose an office cleaner is contracted to work 42 hours per week with an hourly wage of $35. The office cleaner also agrees to work 1 hour of overtime a day during peak season, at an overtime pay rate of 1.0 of her normal pay. Her total employment earnings under the hypothetical

[155] For example, it is further assumed in the illustrative examples 1 and 3 that the workers may use the meal breaks freely and thus the time for meal breaks is not included as working hours/contractual hours.

setting are shown in the **Base Scenario** of **Table 10.2**. If the SWH policy is implemented, there would at least be 4 scenarios (or even more) with different outcomes depending on the policy formulation and employers' response.

10.37 For example, under an SWH threshold of 48 hours per week and a statutory minimum overtime pay rate of 1.0, the employer can maintain the status quo as the total working hours do not exceed the SWH threshold and the statutory overtime pay rate is also exactly the same as the original one. Under this scenario, the office cleaner would enjoy the same contractual and overtime pay as before (**Scenario 1**).

10.38 The example becomes more complicated when the SWH threshold is 44 hours with a statutory minimum overtime pay rate at 1.25. Assuming that total working hours remain unchanged, and if the employer is allowed by law to calculate the pay of those overtime working hours below the SWH threshold based on the original overtime pay rate, the employer will remunerate the first 2 hours (i.e. 44 hours [SWH threshold] minus 42 hours [contractual]) of overtime work at 1.0 time of normal pay, while the remaining 4 hours (i.e. a total of 6 overtime hours minus the first 2 hours mentioned above) at 1.25 times. Earnings of the office cleaner would slightly increase given the increase in overtime pay (**Scenario 2**).

10.39 It is not known whether the SWH legislation allows a change of contractual terms between employers and employees upon policy implementation. As illustrated in Scenario 3 in which the SWH threshold is set at 44 hours with the statutory minimum overtime pay rate increased further to 1.5, if the office cleaner's employment contract covers renewable terms which are still valid upon SWH implementation, subject to the employee's agreement, the employer may choose to increase the contractual hours to the threshold. The overall earnings will also be more than the Base Scenario (**Scenario 3**).

10.40 On the other hand, it would also be possible that the employer simply cuts all the overtime hours after modifying the contractual terms. The office worker would then be working only 44 hours a week instead of 48 hours, and experience a wage cut due to the complete loss of overtime pay (**Scenario 4**).

Table 10.2: Hypothetical variations of pay upon SWH implementation – office cleaner

Office cleaner (26 working days, 4 paid rest days, hourly wages= $35)					
Scenario	Base (Pre-SWH implementation)	1	2	3	4
SWH threshold	-	48 hours	44 hours	44 hours	44 hours
Statutory minimum overtime pay rate	-	1.0	1.25	1.5	1.5
Contractual hours	42 hours	42 hours	42 hours	44 hours	44 hours
Paid overtime hours	6 hours	6 hours	6 hours	4 hours	-
Total weekly working hours	48 hours	48 hours	48 hours	48 hours	44 hours
Employer's possible action	Paying overtime at 1.0	Status quo, paying overtime at 1.0	Overtime pay beyond SWH threshold increased to statutory level	Contractual hours increased, overtime pay beyond SWH threshold increased to statutory level	Contractual hours increased, no overtime
Overtime pay rate chosen[156]	1.0	1.0	1.0 – 2 hours 1.25 – 4 hours	1.5	-
Contractual pay[157]	$6,370	$6,370	$6,370	$6,673	$6,673
Rest day pay[158]	$980	$980	$980	$1,027	$1,027
Overtime pay[159]	$910	$910	$1,062	$910	-
Total monthly salary	$8,260	$8,260	$8,412	$8,610	$7,700
Change in earnings	**-**	**No change**	**+1.8%**	**+4.2%**	**-6.8%**

[156] For Scenario 2, as the SWH threshold is 44 hours per week, it is assumed feasible in this example to pay the first 2 overtime hours at the original pay rate of 1.0 while the remaining 4 overtime hours at 1.25. However, it is also possible for all overtime hours to be paid at 1.25, depending on the policy design.

[157] It is further assumed that the contractual hours are 7 hours a day for Base Scenario and Scenarios 1 and 2, while the daily contractual hours would be 7 $^{1}/_{3}$ hours for Scenarios 3 and 4 so as to be in line with the SWH threshold of 44 hours a week (44 hours / 6 days). Hence, the contractual pay for Base Scenario and Scenarios 1 to 2 (and for Scenarios 3 and 4) would be 26 days × $35 × 7 hours (× 7 $^{1}/_{3}$ hours) = $6,370 (= $6,673).

[158] Rest day pay for Base Scenario and Scenarios 1 and 2 (and for Scenarios 3 and 4) = 4 days × $35 × 7 hours (× 7 $^{1}/_{3}$ hours) = $980 (= $1,027).

[159] Overtime pay for Base Scenario and Scenario 1 (and for Scenario 3) = 26 days × $35 × 1 hour × 1 (× 4/6 hours × 1.5) = $910 (= $910). For Scenario 2, the overtime pay would be 26 days × $35 × 2/6 hour × 1 + 26 days × $35 × 4/6 hour × 1.25 = $1,062.

Example 2: 2-shift Security Guard

10.41 Example 2 illustrates a typical 2-shift security guard working contractually 72 hours a week without any overtime hours. Similarly, different outcome in monthly salary can result depending on the policy parameters and employers' response under the prevailing economic and labour market situations (**Table 10.3**).

10.42 In an economic boom, as firms usually operate under better profit situation, it may be more rational for the employer to provide overtime pay even after the SWH implementation amid tight labour market conditions (**Scenarios 1 to 3**). But during an economic downturn, the employer may prefer reengineering the work flow with a view to cutting working hours and deploying more employees to share the workload or substituting part-time work for overtime work.

10.43 As shown in **Scenario 4**, the security guard would suffer a visible reduction in monthly earnings if his working arrangement is to be changed from 2-shift to 3-shift. In general, the higher the statutory minimum overtime pay rate, the greater would be the incentives on the part of firms to initiate job sharing or substitute part-time work for overtime work.

Table 10.3: Hypothetical variations of pay upon SWH implementation – security guard

2-shift security guard (26 working days, 4 paid rest days, hourly wages= $30)					
Scenario	Base (Pre-SWH implementation)	1	2	3	4
SWH threshold	-	48 hours	40 hours	40 hours	48 hours
Statutory minimum overtime pay rate	-	1.5	1.5	1.0	1.5
Contractual hours	72 hours	48 hours	40 hours	40 hours	48 hours
Paid overtime hours	-	24 hours	32 hours	32 hours	-
Total weekly working hours	72 hours	72 hours	72 hours	72 hours	48 hours
Employer's possible action	2-shift without overtime	Contractual hours decreased, working hours beyond threshold converted to paid overtime			3-shift without overtime
Overtime pay rate chosen	-	1.5	1.5	1.0	-
Contractual pay[160]	$9,360	$6,240	$5,200	$5,200	$6,240
Rest day pay[161]	$1,440	$960	$800	$800	$960
Overtime pay[162]	-	$4,680	$6,240	$4,160	-
Total monthly salary	$10,800	$11,880	$12,240	$10,160	$7,200
Change in earnings	**-**	**+10.0%**	**+13.3%**	**-5.9%**	**-33.3%**

Example 3: Part-time Sales

10.44 It would also be possible that employees with working hours below the SWH threshold could still be affected by the policy implementation. Example 3 below demonstrates the case of a part-time salesperson working in a department store, who would face a wage reduction when

[160] It is assumed that the security guard has to stay in the workplace during meal breaks, which becomes part of his contractual hours. It is further assumed that he works 12 hours a day for Base Scenario (and 8 hours a day for Scenarios 1 and 4). The contractual pay = 26 days × $30 × 12 hours (× 8 hours) = $9,360 (= $6,240).

For Scenarios 2 and 3, the daily contractual hours would be reduced to 6 $^{2}/_{3}$ hours in order to comply with the SWH threshold of 40 hours a week (40 hours / 6 days). The contractual pay would then be 26 days × $30 × 40/6 hours = $5,200.

[161] Rest day pay is calculated according to the corresponding derived daily contractual hours:
Base Scenario = 4 days × $30 × 12 hours = $1,440;
Scenarios 1 and 4 = 4 days × $30 × 8 hours = $960; and
Scenarios 2 and 3 = 4 days × $30 × 40/6 hours = $800.

[162] Overtime pay for:
Scenario 1 = 26 days × $30 × 4 hours × 1.5 = $4,680;
Scenario 2 (and Scenario 3)= 26 days × $30 × 32/6 hours × 1.5 (× 1.0) = $6,240 (= $4,160).

overtime work is no longer required by the employer upon policy implementation (**Table 10.4**).

Table 10.4: Hypothetical variations of pay upon SWH implementation – part-time sales

Part-time sales (26 working days, 4 paid rest days, hourly wages= $40)					
Scenario	Base (Pre-SWH implementation)	1	2	3	4
SWH threshold	-	40 hours	40 hours	40 hours	40 hours
Statutory minimum overtime pay rate	-	1.5	1.5	1.5	1.5
Contractual hours	30 hours	30 hours	30 hours	36 hours	30 hours
Paid overtime hours	6 hours	6 hours	6 hours	-	-
Total weekly working hours	36 hours	36 hours	36 hours	36 hours	30 hours
Employer's possible action	Paying overtime at 1.0	Status quo, paying overtime at 1.0	Overtime pay rate increased to statutory level	No overtime, contractual hours increased	No overtime
Overtime pay rate chosen	1.0	1.0	1.5	-	-
Contractual pay[163]	$5,200	$5,200	$5,200	$6,240	$5,200
Rest day pay[164]	$800	$800	$800	$960	$800
Overtime pay[165]	$1,040	$1,040	$1,560	-	-
Total monthly salary	$7,040	$7,040	$7,560	$7,200	$6,000
Change in earnings	**-**	**No change**	**+7.4%**	**+2.3%**	**-14.8%**

Higher-skilled Employees

10.45 As for higher-skilled employees, given the fact that these individuals are at the top deciles of the employment earnings distribution, they would enjoy a significant increase in salaries if all of the working hours above the SWH threshold become statutory and paid at a minimum overtime pay rate upon policy implementation. Even when their working hours are reduced, this should hardly affect their monthly income as compared

[163] It is further assumed that the part-timer contractually works 5 hours a day. Her original contractual pay = 26 days × $40 × 5 hours = $5,200. But in Scenario 3 it becomes 26 days × $40 × 6 hours = $6,240.

[164] Rest day pay before (and after changing contractual terms) = 4 days × $40 × 5 hours (× 6 hours) = $800 (= $960).

[165] Overtime pay for Base Scenario and Scenario 1 (and for Scenario 2) = 26 days × $40 × 1 hour × 1 (× 1.5) = $1,040 (= $1,560).

to lower-skilled employees from the above examples, since most of their overtime work is already uncompensated as discussed in Chapter 9.

Comments

10.46 In sum, SWH policy would have far-reaching and multi-faceted ramifications on the economy and the labour market. While SWH's effect on productivity and employment is inconclusive depending on the dynamic responses of employers and employees as well as the prevailing economic conditions at the time of implementation, SWH would increase the wage bill and administrative costs, which may in turn fuel inflationary pressure and create a more challenging business environment, especially for SMEs. In addition, SWH might also hinder labour market flexibility and undermine Hong Kong's competitiveness and ability to adjust to changes in the economic environment. In the longer run, SWH could put additional constraint on labour supply in terms of man-hours, which may hamper economic growth in view of the ageing population.

10.47 The scenario studies show that the cost impact on doing business by altering just three policy parameters will vary significantly. For example, under scenarios without any exemption, the number of affected employees would range from 1 320 200 to 2 378 900 (50.6% to 91.1% of full-time employees), and the corresponding estimated increase in total wage bill would be $8.0 billion to $55.2 billion per annum (1.7% to 11.4% of 2011 total wage bill), depending on the policy design and employers' response under the prevailing economic and labour market situations.

10.48 From the employees' perspective, earnings may actually increase, decrease or remain unchanged after SWH implementation depending on the policy design and contractual arrangement between employers and employees. Given the nuances of policy design, dynamic interaction between employers and employees, and inconclusive effect on business costs and labour incomes, SWH policy certainly warrants serious public deliberation and thorough consideration of its possible social and economic implications in the short and long term.

CHAPTER 11

KEY ISSUES TO BE CONSIDERED

Introduction

11.1 Working hours policy is a highly complex and contentious subject which involves a myriad of interrelated social and economic issues. Given the long-term and widespread implications that it will bring to our labour market and economy, it is necessary for the community to examine and discuss these issues thoroughly before coming to a view on the matter. This report, which covers both international perspectives and local assessments, should provide a sound basis for an informed public policy discussion on this important subject.

Issues to be Considered

11.2 Before contemplating any working hours policy, the public must be aware that the issue is far more complicated than SMW, given the larger number of employees covered and the wider range of industries and sectors to be affected. It is envisaged that the introduction of an SWH regime in Hong Kong will bring substantial changes to the existing labour relations, labour market, work culture and business environment, which works to impact significantly on Hong Kong's economy and the community. On the basis of our analysis in the previous Chapters, we have identified at least six key issues that need to be further discussed in depth, not only by employee and employer groups which are the most directly involved stakeholders, but also by the community at large, before the way forward is decided.

Objectives of Working Hours Policy

11.3 As mentioned in Chapter 5, working hours policy may achieve a number of policy objectives, including: (a) occupational safety and health; (b) job creation and sharing; (c) better work-life balance; and (d) fair compensation for overtime. The adoption of different objectives will

involve different policy considerations and result in different regime designs. For example, if the fundamental policy consideration is to protect the workers' occupational safety and health, then the corresponding regime should impose strict restriction on maximum working hours and allow as few exemptions as possible, even if the employers and employees could agree on an overtime pay rate. Of course, this will in effect amount to a maximum working hours regime and its social and economic impact will be different and even more significant as compared to the SWH regime.

11.4 On the other hand, we should consider whether employees are concerned more about long working hours without compensation of overtime pay; or whether they are willing to work long hours given due compensation of overtime hours. This raises the fundamental question of whether employees should be given the right to choose the number of hours they work and if so how to strike a balance between respecting their individual freedom and protecting their safety and health. As such, the policy objective(s) chosen will carry implications on a vast array of policy parameters in the regime design, such as how to define working hours, which working hours threshold should be adopted, how overtime hours are regulated and overtime pay calculated, etc. We should be mindful that no single regime will fully meet all the objectives. There is simply no one-size-fits-all formula. It is important for the community to reach a consensus on the ultimate objective of SWH should it be mandated in Hong Kong.

Labour Flexibility and Hong Kong's Competitiveness

11.5 The high degree of flexibility of Hong Kong's workforce has long been the bedrock of our success and competitiveness. For a service-oriented economy to thrive, many sectors (such as retail, hotel, insurance, real estate, tourism, and logistics, etc.) must have the flexibility to deploy workers. Indeed, Hong Kong ranked No.1 in the 2012 Index of Economic Freedom [166]. To maintain Hong Kong's competitive advantage, it is necessary that we sensibly balance employees' rights and benefits with businesses' flexibility, and prevent the undermining of our system by over-regulation. As such, we need to recognise the essential

[166] 2012 Index of Economic Freedom is measured by *The Wall Street Journal* and The Heritage Foundation (http://www.heritage.org/index/ranking).

mitigating role played by the exemptions and flexibility arrangements in other SWH regimes, and consider in a pragmatic manner how they should function in the Hong Kong context. Having said that, we recognise that any such arrangements will be controversial and it will not be easy for consensus to be reached on the matter.

11.6 The community needs to give serious thoughts to whether and how the implementation of SWH, coupled with SMW, could unduly impact on Hong Kong's labour flexibility and business environment, and whether this may stifle business development and weaken Hong Kong's competitiveness as a global business centre, and impede the economic adjustment process particularly given the current linked exchange rate regime. It is also relevant to point out that the impact of SMW, which came into effect only in May 2011, has yet to be fully assessed and appreciated. With other demands to further enhance labour protection being championed, we need to consider the case of SWH, its relative priority and a reasonable interval for mandating it vis-à-vis other competing demands from a broader perspective. We should strike a balance between enhancing employees' rights and benefits on the one hand, and preserving our labour market flexibility without undermining our economic competitiveness and growth on the other.

Possible Proliferation of Part-timers and Casual Workers

11.7 As mentioned in Chapter 8, compared with other developed economies, Hong Kong has a distinctly low proportion of part-timers and casual workers under a liberal labour market. Experience in other places shows that working hours regimes may increase the share of part-time employment and shorten the average or median working hours of the workforce. However, this decrease in working hours does not necessarily mean that workers who used to work the longest working hours would benefit. Experience in other places also reveals that increase in part-time employment may help boost the labour force participation rate which is particularly important to places confronted with ageing problem such as Korea, Japan and Singapore.

11.8 In the context of Hong Kong, the proportion of elderly persons aged 65 and above is expected to rise from 13.9% in 2011 to 30% in 2039, according to the 2009-based Population Projections. While increase in

part-time jobs may attract retirees or elderly employees back to the labour market, we have to consider its possible impact on the community at large, such as a decrease in full-time jobs which most workers, especially those who are also the family's major income earners and want a more stable job, would prefer, and young workers' concern that an increasingly ageing workforce would jeopardise their career advancement.

11.9 Experience in other places shows that SWH may eventually bring about fragmentation of work and underemployment, if employees have to involuntarily work fewer hours owing to ensuing adjustment in the labour market structure with an increase in part-time or casual jobs. The community has to assess whether such a development is desirable. In particular, we need to address the issue of improving employees' rights and benefits through working hours reduction without significantly causing adverse impact on the employment opportunities of vulnerable employees. The community has to consider how the possible increase in part-timers and casual workers would further affect working hours, employment and business operations.

Impact on Businesses in General and SMEs in Particular

11.10 While the policy study assesses the additional cost impact of SWH under various scenarios, it should be noted that other labour-related legislation [167] enacted over the past decades have also incurred compliance cost on employers. The cumulative cost incurred by compliance with various labour-related legislation since the enactment of the EO in 1968 is crudely estimated to be around 6%[168] of the total wage bill in 2011. Although most of the cost entailed should have been absorbed over the years, the total compliance cost on businesses should be considered when evaluating the overall affordability of employers should an SWH policy be adopted.

[167] A total of eight labour-related legislation are covered in the assessment. They are EO, Employees' Compensation Ordinance, Employees' Compensation Insurance Levies Ordinance, Pneumoconiosis and Mesothelioma (Compensation) Ordinance, Protection of Wages on Insolvency Ordinance, Factories and Industrial Undertakings Ordinance, Mandatory Provident Fund Schemes Ordinance, and MWO.

[168] The compliance cost of MWO does not include the impact of knock-on/ripple effects arising from the implementation of SMW.

11.11 As discussed in Chapter 7, SMEs' success often lies in their ability to respond promptly and flexibly to market volatility. However, the implementation of SWH may impact adversely on their operational flexibility, competitiveness and operating costs. Given the importance of SMEs to our economy, in considering whether SWH should be introduced, we must give due regard to its potential effect on SMEs. Should there be special measures designed for SMEs such as deferred SWH implementation, we need to resolve the issues of unfair treatment for employees of SMEs and problems for SMEs in recruiting and retaining staff. Thus thorough discussion and consultation is required to ascertain how far SMEs in different trades and with different operational needs can cope with statutory working hours requirements, on top of SMW and other statutory labour benefit obligations.

Modus Operandi of Different Industries

11.12 Owing to the diversity in the modes of operation among various sectors, the impact of SWH on different sectors will also vary. While some proponents of SWH advocate SWH measures across the board, there are arguments that excessive regulation may affect the growth and development of certain industries and sectors which are characterised by complex operational requirements and in need of flexible approaches. It is challenging to devise simple SWH measures to adequately cater for the multifarious needs of different industries and sectors as well as jobs and occupations. Should SWH be introduced, the community needs to consider whether the regime should have universal application, or apply only to certain industries and/or occupations with particularly long working hours, etc. Also, we should consider the need for other general flexibility arrangements to be incorporated into the regime and the level of flexibility that is considered appropriate.

Is Legislation the Best Way Forward?

11.13 As discussed in Chapter 7, long working hours is a highly complex issue associated with the structural change of the economy, labour market, social or even cultural aspects of individual economies. However, a statutory SWH regime should not be regarded as a panacea for resolving all long working hours related problems. Thus we need to consider the most appropriate and effective form of working hours policy that fits

Hong Kong's unique socio-economic circumstances on the one hand, and balances the interests of employers and employees as well as broader social concerns (e.g. work-life balance) on the other. Eventually, the community needs to reach a consensus as to whether establishing a comprehensive SWH regime by legislative means is in the best interest of Hong Kong. We should also consider whether other non-legislative means such as educational and promotional initiatives, awareness raising campaign, code of occupational safety and health, and industry-specific or occupation-specific guidelines pertinent to working hours, are better and more suitable alternatives.

Comments

11.14 This study has examined the subject of working hours policy from various angles and identified a number of more salient issues for further public discussion. It is beyond argument that working unduly long hours produces adverse effects on employees, their families and the community. However, the choice of individual employees, and the economic and business imperatives of the current global and technological environment could not be lightly brushed aside. Experience in other places also reveals that various sectors of the community have divergent demands regarding various aspects of the SWH regime. These point to the importance of consensus building which calls for in-depth policy discussion and the balancing of the interests of all the parties concerned.

11.15 When consensus on the SWH policy objective is reached, each essential component of a working hours regime has to be carefully thought through with due regard to our unique social and economic situation. This requires critical examination of each component and exploration of how the regulation of working hours could accommodate both business flexibility and employees' interests, and achieve the best balance between the working hours policy and local working time practice. The following are some of the key questions that need to be asked and answered:

(a) Should SWH be adopted at all, given the recent introduction of SMW and the acute global competition for business? If SWH is considered the right course to pursue, should we go down the legislative route? If so, when would be a suitable time?

(b) Definition of working hours: If we go down the legislative route, what is the definition of working hours? Should "on-call" time, meal breaks, and rest breaks be included as working hours?

(c) Working hours limits: Should we adopt "standard working hours" or "maximum working hours"? Which level of daily or weekly threshold should be set, and to whom should it be applied?

(d) Overtime: Should the number of overtime hours be rigidly restricted and, if so, how should it be regulated? Should we impose statutory overtime pay rate, and if so, should it be a normal or premium pay rate?

(e) Exemptions: Should regulation be imposed across-the-board, or should it be introduced for certain industries? Should exemption be set, and if so, what are the criteria? Should they be based on occupation or job responsibility, salary level, size or sales volume of companies, other exceptional circumstances, or a combination of them?

(f) Flexibility arrangements: Given the policy objective agreed upon, should flexibility arrangements be allowed? And if allowed, how should they be designed? How long should the reference period be? Should employees who want to work longer hours for more earnings be allowed to opt-out?

11.16 A more comprehensive list of such questions is given at **Appendix 7**.

CHAPTER 12

THE NEXT STEP FORWARD

12.1 A major policy aimed at improving employees' rights and benefits like SWH will affect not only employers and employees, but also the entire community and economy. In seeking to advance labour rights and benefits, the Government must in parallel consider the pace of economic development, other labour protection measures to be introduced and their relative priority, the affordability of the community and the need to strike a sensible balance between the interests of employers and employees. This report is the Government's serious attempt to kick-start a policy discussion on the controversial issue of SWH.

12.2 Given the far-reaching implications of the SWH policy on the local economy and community, the success of such a policy could only be built upon consensus to be reached among various sectors of the community, particularly between employers and employees. Indeed, experience in other places also indicates that consensus building for SWH is a lengthy process owing to its complex and technical nature, as well as the controversies involved. Therefore, it is essential that the public is fully aware of the issues involved and their implications. This report should provide a solid and sound basis for further in-depth discussion among the stakeholders and the general public.

Appendix 1

Average Usual Weekly Hours Worked on the Main Job by Full-time Employment in Countries of the Organisation for Economic Co-operation and Development, 2000-2010

Country / Year	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Australia	44.7	44.0	44.0	44.0	43.7	43.7	43.4	43.3	43.5	43.2	43.2
Austria	41.2	41.1	41.3	41.2	43.6	43.6	43.6	43.5	43.2	42.9	42.7
Belgium	41.1	41.3	41.3	41.2	40.9	41.0	40.7	40.9	40.5	40.5	40.7
Chile	45.7	45.6	45.8	45.8	45.7	44.1	44.0	44.0	44.4	44.3	44.6
Czech Republic	44.5	42.4	42.5	42.8	42.7	42.6	42.5	42.6	42.5	42.4	42.3
Denmark	40.0	39.8	39.7	39.7	39.7	39.9	39.8	39.7	39.6	38.1	38.2
Estonia	42.2	42.0	41.6	41.5	41.4	41.3	41.1	41.1	40.8	40.6	40.7
Finland	40.8	40.6	40.7	40.6	40.4	40.7	40.6	40.3	40.3	40.2	40.2
France	40.2	39.6	39.0	40.8	40.8	40.9	40.9	40.9	40.9	40.9	41.0
Germany	41.5	41.3	41.2	40.7	41.0	41.2	41.2	41.1	41.1	41.2	41.2
Greece	44.5	44.5	44.5	44.7	44.5	44.6	44.6	44.3	44.4	44.6	44.5
Hungary	41.9	41.5	41.4	41.4	41.2	41.0	41.0	40.9	40.8	40.7	40.6
Iceland	48.5	48.0	47.2	45.9	45.7	46.0	46.2	46.1	45.4	44.0	43.9
Ireland	42.5	42.1	41.8	41.5	41.3	41.2	40.9	40.8	40.7	40.4	40.4
Italy	42.0	41.8	41.7	41.8	42.1	41.9	41.8	41.8	41.8	41.4	41.3
Korea	53.6	53.6	53.0	52.4	52.2	51.8	51.5	50.6	49.6	49.7	49.2
Luxembourg	41.3	41.1	40.7	41.1	40.6	40.5	39.9	39.4	39.5	40.9	40.7
Mexico	48.4	48.0	47.6	47.7	48.2	49.2	49.2	49.1	49.1	49.0	49.2
Netherlands	39.7	39.7	39.3	39.2	39.2	39.3	39.3	39.3	39.2	39.2	39.3
New Zealand	45.3	45.0	44.9	44.8	44.4	44.3	44.0	43.9	43.9	43.6	43.5
Norway	39.0	38.9	38.9	38.8	38.7	38.8	38.9	38.7	38.7	38.6	38.5
Poland	43.8	43.8	43.9	44.0	44.0	43.9	43.6	43.5	43.2	42.8	42.7
Portugal	41.9	41.7	41.8	41.6	41.5	41.5	41.3	41.4	41.4	41.3	41.2
Slovak Republic	42.9	42.6	41.8	41.1	41.4	41.6	41.7	41.7	41.6	41.5	41.5
Slovenia	..	..	42.8	42.4	42.7	42.7	42.4	42.4	42.4	41.9	41.8
Spain	42.0	41.9	41.7	41.6	41.6	42.1	42.0	41.9	41.7	41.6	41.6
Sweden	40.2	40.1	39.9	39.9	39.8	38.2	39.8	39.8	39.7	39.7	39.7
Switzerland	42.7	42.7	42.6	42.4	42.3	42.3	42.3	42.3	42.2	42.2	42.0
Turkey	..	..	..	..	..	..	55.1	53.9	53.5	53.2	53.2
The UK	44.0	44.0	43.6	43.4	43.2	43.0	42.9	42.9	42.8	42.6	42.6

Source: Employment and Labour Market Statistics, Organisation for Economic Co-operation and Development (http://stats.oecd.org/Index.aspx).

Note: Figures relate to full-time employees and include self-employed persons. Comparable data are not available for Canada, Japan, the United States, Israel or the Russian Federation.

Appendix 2

Working Hours Regulation in 12 Economies

Appendix 2.1 Working Hours Regulation in Singapore
Appendix 2.2 Working Hours Regulation in the Republic of Korea
Appendix 2.3 Working Hours Regulation in Japan
Appendix 2.4 Working Hours Regulation on the Mainland
Appendix 2.5 Working Hours Regulation in Macao
Appendix 2.6 Working Hours Regulation in Taiwan
Appendix 2.7 Working Hours Regulation in Australia
Appendix 2.8 Working Hours Regulation in the European Union
Appendix 2.9 Working Hours Regulation in the United Kingdom
Appendix 2.10 Working Hours Regulation in Belgium
Appendix 2.11 Working Hours Regulation in the United States
Appendix 2.12 Working Hours Regulation in Canada

Appendix 2.1

Working Hours Regulation in Singapore

Legislation

- The main piece of legislation governing working hours in Singapore is the Employment Act enacted in 1968. It sets out the minimum employment terms and conditions.

Coverage and Exemptions

- The Employment Act covers any person who works under a contract of service except:

  (1) seaman;
  (2) domestic worker[169];
  (3) person employed by a Statutory Board or the Government; and
  (4) person employed in a managerial or executive position[170].

- Part IV of the Employment Act governs the terms and conditions on hours of work, overtime arrangement and allowances, rest breaks, rest days and pay for work on rest days. It only applies to:

  (1) workmen[171] earning a basic monthly salary of not more than S$4,500 (HK$27,450); and

[169] A domestic worker means any house, stable or garden servant or motor car driver, employed in or in connection with the domestic services of any private premises.

[170] Junior managerial and executive staff earning a basic monthly salary not exceeding S$4,500 (HK$27,450) have access to the Labour Court for salary claims.

[171] According to the Employment Act, a workman is (1) any person, skilled or unskilled, who has entered into a contract of service with an employer in pursuance of which he is engaged in manual labour, including any artisan or apprentice, but excluding any seaman or domestic worker; (2) any person, other than clerical staff, employed in the operation or maintenance of mechanically propelled vehicles used for the transport of passengers for hire or for commercial purposes; (3) any person employed partly for manual labour and partly for the purpose of supervising in person any workman in and throughout the performance of his work; (4) any person specified in the First Schedule, including (a) cleaners; (b) construction workers; (c) labourers; (d) machine operators and assemblers; (e) metal and machinery workers; (f) train, bus, lorry and van drivers; (g) train and bus inspectors; and (h) all workmen employed on piece rates in the premises of the employer; and (5) any person whom the Minister of Manpower may, by notification in the Gazette, declare to be a workman for the purposes of the Employment Act.

(2) employees[172] earning a basic monthly salary of not more than S$2,000 (HK$12,200).

Major Definitions

- The terms relevant to working hours provisions as defined under the Employment Act are set out below:

"Hours of work"	-	The time during which an employee is at the disposal of the employer and is not free to dispose of his own time and movements exclusive of any intervals allowed for rest and meals.
"Overtime"	-	The number of hours worked in any one day or in any one week in excess of the limits specified in Part IV of the Employment Act (i.e. 8 hours per day or 44 hours per week).

- Managers and executives NOT covered under the Employment Act are defined under a guide issued by the Singapore authority as:

(1) employees with executive or supervisory functions:

- including the authority to influence or make decision on issues such as recruitment, discipline, termination of employment, assessment of performance and reward;
- involving the formulation of strategies and policies of the enterprise, or the management and running of the business; and

(2) professionals with tertiary education and specialised knowledge or skills and whose employment terms are comparable to those of managers and executives (e.g. lawyers, accountants, doctors).

[172] According to the Employment Act, an employee is a person who has entered into or works under a contract of service with an employer, and officers or government employees declared by the President to be employees for the purposes of the Employment Act or any provision thereof, but does not include: (1) any seaman; (2) any domestic worker; (3) any person employed in a managerial or an executive position; and (4) any person belonging to any other class of persons whom the Minister for Manpower may, from time to time by notification in the *Gazette*, declare not to be employees for the purposes of this Act. For (4), any person employed in a managerial or an executive position who receives a salary not exceeding S$4,500 (HK$27,450) a month (excluding overtime payments, bonus payments, annual wage supplements, productivity incentive payments and any allowance however described), or such other amount as may be prescribed by the Minister, shall be regarded as an employee for the purposes of (a) fixation of salary period, computation of salary for incomplete month's work, time of payment, payment on dismissal, payment on termination by employee, income tax clearance, payment to be made during working hours, and other Parts on inspection and enquiry, claims, complaints and investigations into offences, etc.; and (b) such other provisions of this Act as the Minister of Manpower may, by regulations, specify, and those provisions shall apply in relation to that person subject to such modification as may be prescribed.

Working Hours Limits

- The working hours shall not exceed 8 hours per day or 44 hours per week.

Systems to Allow Flexibility

- By agreement between the employer and the employee made under the contract:

  (1) If the number of hours of work on one or more days of a week is less than 8, the 8-hour daily limit on remaining days of the week may be exceeded (but the employee is not required to work for more than 9 hours per day or 44 hours per week).

  (2) 8-hour daily limit may be exceeded when an employee is not required to work more than 5 days a week (but he is not required to work for more than 9 hours per day or 44 hours per week).

  (3) If the number of hours worked is less than 44 hours every alternate week, the limit of 44 hours may be exceeded in the other week (subject to 48 hours in one week and 88 hours in any continuous two-week period).

- An employee can be required to work up to 12 hours a day if he gives consent in writing.

- Except in specified circumstances[173], an employee is not allowed to work for more than 12 hours per day.

Overtime Work

- Employers requiring their employees to work more than 12 hours a day are required under the Employment Act to apply for overtime exemption from the authority. Even if exemption is granted:

  (1) overtime work cannot be compulsory;

  (2) an employee cannot work more than 14 hours a day; and

[173] These circumstances include: (1) accident or threat of accident; (2) work essential to the life of community, national defence or security; (3) urgent work to be done to machinery or plant; (4) interruption of work impossible to foresee; and (5) work to be performed by employees in any industrial undertaking essential to the economy or any of the essential services as defined under Part III of the Criminal Law (Temporary Provisions) Act (Cap. 67) (e.g. banking services, broadcasting services, electricity and gas services, fire services, etc.).

(3) no exemption can be applied for pregnant employees and those under the age of 18.

- An employee is permitted to work up to 72 hours of overtime per month. However, this limit may be exceeded if the authority has granted an exemption.

Overtime Pay

- Overtime allowance is payable if the employee is required to work more than the daily limit (8 or 9 hours) or weekly limit (44 or 48 hours in 1 week or 88 hours in a continuous 2-week period).

- An employee must be paid at a minimum rate of 1.5 times the hourly basic rate of pay[174] within 14 days after the last day of the salary period.

Daily Rest Break

- An employee is generally not required to work more than 6 hours without a break. However, if the nature of work is such that it must be carried on continuously, an employee may be required to work 8 hours continuously. In such an instance, a break or breaks with duration not less than 45 minutes must be given for the opportunity to have a meal. Such intervals for rest or meals are not regarded as "hours of work". The Employment Act is silent on whether the rest break is paid or not.

Weekly Rest Day

- An employee is entitled to one whole day of rest day each week without pay. The longest allowable interval between two rest days is 12 days.

- An employer can request but cannot force an employee to work on a rest day unless the nature of work is such that it must be carried on continuously

[174] "Basic rate of pay" means the total amount of money (including wage adjustments and increments) to which an employee is entitled under his contract of service either for working for a period of time, that is, for one hour, one day, one week, one month or for such other period as may be stated or implied in his contract of service, or for each completed piece or task of work but does not include: (1) additional payments by way of overtime payments; (2) additional payments by way of bonus payments or annual wage supplements; (3) any sum paid to the employee to reimburse him for special expenses incurred by him in the course of his employment; (4) productivity incentive payments; and (5) any allowance however described.

by a succession of shifts. The pay for work on a rest day depends on the work duration and whether the request to work originates from the employer or employee. The details are provided below:

Table A2.1: Pay for Work on a Rest Day

Pay for Work on a Rest Day	At Employer's Request	At Employee's Request
Up to half the normal hours for 1 day	1 day's pay (basic rate)	1/2 day's pay (basic rate)
More than half and up to the normal hours for 1 day	2 days' pay (basic rate)	1 day's pay (basic rate)

Night Work

- The Employment Act does not stipulate provisions for night work.

Shift Work

- A shift worker[175] may be required to work more than 6 consecutive hours or more than 8 hours in any one day, or more than 44 hours in any one week provided that the average working hours each week do not exceed 44 over a continuous three-week period.

- Except in specified circumstances[176], a shift worker is not allowed to work for more than 12 hours per day or work on a rest day.

- A shift worker is entitled to overtime allowance only if he, at the request of his employer, works more than an average of 44 hours a week over any continuous period of three weeks.

[175] The provisions of shift workers apply to an employee who is engaged under his contract of service in regular shift work or who as otherwise consented in writing to work in accordance with the section of the Employment Act on shift workers. For a consent given by an employee to be valid, he must be informed of the times at which the hours of work begin and end, the number of working days in each week and the weekly rest day.

[176] These circumstances include: (1) accident (actual or threatened); (2) work essential to the life of community, national defence or security; (3) urgent work to be done to machinery or plant; and (4) interruption of work impossible to foresee.

- For a shift worker, a rest day can be a continuous period of 30 hours. A 30-hour rest period that commences before 6 p.m. on a Sunday will be considered as one rest day within the week, even though the 30-hour period will extend into the next week, i.e. Monday.

Appendix 2.2

Working Hours Regulation in the Republic of Korea

Legislation and Objective

- The main piece of legislation governing working hours in the Republic of Korea (Korea) is the Labour Standards Act (the Korean LSA) enacted in 1953. Its purpose is to set standards for the conditions of employment in conformity with the Constitution, thereby securing and improving workers' standard of living and achieving a well-balanced development of the economy. Standard working hours is one of the many issues covered by this legislation.

Coverage and Exemptions

- The Korean LSA applies to all businesses or workplaces in which five or more workers are ordinarily employed[177], but does not apply to any business or workplace which employs only relatives living together, as well as workers who are hired for domestic work.

- Chapter 4 of the Korean LSA governing working hours[178] and Chapter 5 governing work performed by females and minors do not apply to workers engaged in the following activities:

  (1) cultivation of arable land, reclamation work, seeding and planting, gathering or picking-up or other agricultural and forestry work;
  (2) livestock breeding, catching of marine animals and plants, cultivation of marine products or other cattle-breeding, sericulture and fishery business;

[177] Only the provisions pertaining to, among others, recess hours, holidays (i.e. weekly rest day) and working hours for females and minors are applicable to a business or workplace which ordinarily employs four workers or less.

[178] Provisions of Chapter 4 cover working hours, various working hours systems, rest break (called "recess hours" in the Korean LSA), weekly rest day (called "holidays" in the Korean LSA), overtime work (called "extended work" in the Korean LSA) and overtime pay rate, optional compensational leave, and annual paid leave.

(3) surveillance[179] or intermittent work[180], for which the employer has obtained the approval of the Minister of Employment and Labour; and

(4) any other work prescribed in the Presidential Decree[181] (i.e. managerial and supervisory work and work of handling secret affairs irrespective of types of work).

[179] Requirements for workers to be regarded as engaging in surveillance work:

(1) They shall be engaged in a kind of work which is not physically or mentally exhausting, such as cleaners, security guards and watchmen. The surveillance jobs shall not incur or require a high level of mental stress/concentration of the worker concerned (i.e. 24 hours per day and 7 days per week surveillance without recess);

(2) They shall be mainly engaged in surveillance work but perform other kinds of work on an irregular and short-time basis. However, if the workers, being hired for surveillance work, perform other kinds of work repeatedly or concurrently, they shall be subject to the Korean LSA; and

(3) They shall work 12 hours or less per day under the employer's supervision, or they shall work every other day (on a 24-hour shift) in either of the following cases:

(a) They shall have 8 hours or more in recess time to sleep or spend freely; or

(b) Even when the requirement in (a) above is not satisfied, they are not subject to the general rules, if they are security guards of apartment houses (including apartment houses, tenement houses, multi-household houses and dormitories as prescribed in a~d of subparagraph 2 of Schedule 1 in the Enforcement Decree of the Housing Act) who have reached agreement on the absence of recess time with the employer and are guaranteed to take 24 hours off in the following day of their work (Revised on 31 December 2008).

See Korea International Labour Foundation (KOILAF) (2011), p. 75-76. KOILAF was established in 1997 jointly by the labour, management and government to promote the co-operation between Korea and the international society through the establishment of sound industrial relations in multinational companies and active international exchange, and the enhancement of mutual understanding in labour issues.

[180] Requirements for workers to be regarded as engaging in intermittent work:

(1) The workload is not too heavy in general and they shall spend much time standing by to handle unexpected accidents, such as mechanical failures.

(2) Their hours of actual work shall be half or less of their stand-by time and shall be no longer than 8 hours. Workers who work every other day (on a 24-hour shift), however, shall have a relevant agreement with their employer and be guaranteed to take 24 hours off in the following day of their work.

(3) They shall be provided with a room or resting facility where they can sleep or spend their time freely while on stand-by.

Examples of intermittent or occasional work which involves much recess and stand-by time are executives' chauffeurs, boiler repairmen, etc. See KOILAF (2011), p. 75-76.

[181] Presidential Decree No. 15320 – the Enforcement Decree of the Korean LSA (1997). The same decree will be referred to as "Presidential Decree" hereafter in **Appendix 2.2**.

Major Definitions

- There is no definition of hours of work as such under the Korean LSA. A term relevant to working hours provisions as defined under the Korean LSA is set out below:

"Contractual working hours"	-	Working hours on which workers and employers have made an agreement within the limit of working hours under Article 50[182] of the Korean LSA or Article 46[183] of the Occupational Safety and Health Act.

Working Hours Limits

- The 40-hour work week was introduced in 2003[184] to be applied in phases from July 2004 to July 2011 according to types of industry and sizes of business (**Table A2.2**).

Table A2.2: Effective Dates of the Korean LSA for Different Types and Sizes of Businesses

Type & Size of Business	Effective Date
Businesses with 1 000 or more workers, financial and insurance industries, and government-invested institutions and public corporations[185]	1 July 2004

[182] Article 50 (Working Hours) of the Korean LSA:
(1) working hours per week shall not exceed 40 hours excluding recess hours; and
(2) working hours per day shall not exceed 8 hours excluding recess hours.

[183] Article 46 (Restriction on Extension of Working Hours) of Occupational Safety and Health Act:
With respect to a worker who is engaged in harmful or dangerous work which is prescribed by the Presidential Decree, the worker should not be required to work in excess of 6 hours per day or 34 hours per week.

[184] Along with the introduction of the 40-hour work week, there are some changes to the provisions of the Korean LSA, including: (1) abolition of the original one-day paid leave per month; (2) change of the one-day menstruation leave per month from paid to unpaid and requirement of prior request from the female employee; (3) employers are relieved from the obligation to compensate unused annual leave with money when employees fail to take leave upon repeated requests from employers; and (4) the overtime pay rate was reduced from 1.5 times to 1.25 times in the first three years when the 40-hour work week was implemented.

[185] Relevant organisations include government-invested institutions under Article 2 of the Framework Act on Management of Government-Invested Institutions, local public enterprises and local public corporations under Articles 49 and 76 of the Local Public Enterprises Act, institutions and organisations (not less than half of whose capital or basic assets are invested or contributed by the State, any local government or any government-invested institution) as well as institution and organisations (not less than half of whose capital or basic assets are invested or contributed by the said institutions and organisations).

Type & Size of Business	Effective Date
Businesses with 300 or more workers	1 July 2005
Businesses with 100 or more workers	1 July 2006
Businesses with 50 or more workers	1 July 2007
Businesses with 20 or more workers	1 July 2008
Businesses with 5 or more workers, and any institution of State and local governments	1 July 2011

- The working hours shall not exceed 8 hours per day and 40 hours per week (excluding recess hours [i.e. rest breaks]).

- Under special circumstances, working hours may be further extended with the approval of the Korean authority and consent of workers[186].

- There are special rules on working hours of young persons[187] and women.

Overtime Work and Overtime Pay

- With the prior agreement between the workers and management (referred to as "with written agreement" hereafter), working hours can be extended up to 12 hours per week. No extended work is allowed for workers engaged in dangerous or harmful work.

- Workers of the following sectors may work in excess of 12 hours of extended work (i.e. overtime) per week or may change the recess hours, with written agreement:

  (1) transportation, goods sales and storage, finance and insurance;
  (2) movie production and entertainment, communications, educational study and research, advertising;
  (3) medical and sanitation, hotels and restaurants, incineration and cleaning, barber and beauty parlors; and

[186] If a situation is so urgent that time is not available to obtain such approval, the employer shall immediately obtain approval from the Korean authority ex post facto (i.e. after the fact). If the authority finds that the extension of working hours is not appropriate, the employer may be ordered to grant recess hours/days-off equivalent to the extended working hours (i.e. overtime hours) at a later time.

[187] Working hours of those aged between 15 and 18 shall not exceed 7 hours per day and 40 hours per week; however, by agreement, working hours may be extended up to 1 hour per day or 6 hours per week.

(4) other businesses determined by the Presidential Decree in consideration of the character of a business and public conveniences (i.e. social welfare as stated in Article 32 of the Presidential Decree).

- The above 12-hour limit will be extended to 16-hour for the first three years of implementation of the 40-hour work week for the respective businesses.

- Extended work of young persons is up to 1 hour per day and 6 hours per week.

- An employer should not request a pregnant female worker to work overtime, and, if there is a request from the worker, the employer should transfer her to take up light duty. A female having childbirth for less than 1 year should not be required to work overtime exceeding 2 hours per day, 6 hours per week, and 150 hours per year.

- An employer is required to pay 1.5 times the ordinary wages for extended work, night work (work provided from 10:00 p.m. to 6:00 a.m.) or holiday work (i.e. work on weekly rest day)[188].

- The overtime pay rate will be adjusted to 1.25 times for the first three years of implementation of the 40-hour work week for the businesses concerned (implementation timeframe depends on the size of the businesses).

- With prior written agreement, an employer may grant leave to workers to compensate for the extended work, night work and holiday work in lieu of paying additional wages. This is referred to as "optional compensational leave" and shall be treated as leave with pay during office hours. Similar to calculating overtime pay, an additional 50% of the ordinary wages should be taken into account in giving the compensational leave[189]. For example, if a worker performs 2-hour extended work, he may take 3-hour paid leave.

---

[188] In case the hours worked are eligible for more than one of the allowances (i.e. extended work, night work and holiday work allowance), all of the relevant hours and overtime hours should be added to determine the amount of overtime allowance entitled.

[189] In case the hours worked are eligible for more than one of extended work, night work and holiday work allowance, all the relevant hours and premium hours will be added to determine the amount of equivalent optional compensational leave. However, application of the optional compensational leave to night work performed as part of normal working hours such as shift is not appropriate as it is not in line with legislative intent.

Systems to Allow Flexibility

- The Korean LSA provides for various systems to allow flexibility, including "Flexible Working Hours System", "Selective Working Hours System" and "Discretionary Working Hours System":

(A) Flexible Working Hours System

This system is intended to allow enterprises to efficiently use working hours according to seasonal factors or sales situations.

By rules of employment[190], a worker may work for a specific week in excess of the daily and weekly maximum, on condition that the average weekly working hours in a unit period of not more than 2 weeks do not exceed 40 hours, and the working hours in any particular week do not exceed 48 hours.

In case there is a prior written agreement[191], the average weekly working hours in a unit period of not more than 3 months shall not exceed 40 hours, and working hours for a specific day and a specific week shall not exceed 12 hours and 52 hours respectively.

The system does not apply to workers aged between 15 and below 18, and pregnant female workers. Employers should prepare measures to ensure that the existing wage level is not lowered.

[190] The rules of employment are rules that are unilaterally devised by an employer concerning contractual working conditions or work behaviours generally binding to his workers. A company, factory or another form of workplace employing permanently 10 persons or more shall set the rules of employment, report it to the competent local authority and inform the workers by keeping it posted at the workplace. When reporting the rules of employment, the employer shall submit a statement or written consent signed by his workers. When an employer decides to devise or revise the rules of employment, he shall consult a trade union or majority of his workers. The rules of employment may not contradict the legislation or collective agreement that is applicable to the business.

[191] The written agreement shall specify: (1) scope of workers covered; (2) length of the unit period; (3) working days in a unit period and working hours for each working day; and (4) other matters prescribed by the Presidential Decree.

(B) Selective Working Hours System

By prior written agreement[192], workers may select each day's working hours including starting and finishing times. They may also work in excess of the daily and weekly maximum, on condition that the average weekly working hours computed over an adjustment period (i.e. a finite period not more than 1 month) do not exceed 40 hours per week. The workers may also work up to 12 extended hours per week averaged over the adjustment period. This system does not apply to workers aged between 15 and 18.

(C) Discretionary Working Hours System

Work outside the Workplace

This system can be applied to jobs when it is difficult to calculate the actual number of hours worked as the workers work outside the workplace for part or all of the working hours due to a business trip or other circumstances.

Depending on the circumstances, the following are deemed to be the hours worked:

(1) contractual working hours; or
(2) the hours ordinarily required to complete the work concerned (when a worker is required to work in excess of contractual hours to complete the task); or
(3) the hours agreed upon in writing by the employer and the worker concerned.

Worker's Discretion at Work

This system can be applied to jobs that require workers' specific expertise or professional skills, which necessitates the employer to

[192] The written agreement shall specify: (1) scope of workers covered; (2) the length of the adjustment period; (3) total working hours during the adjustment period; (4) starting and finishing time of working hours if a specific range of working hours is designated; (5) starting and finishing time of working hours which are allowed to be selected by workers; and (6) standard working hours (working hours per day based on which the employer and workers' representative agree to calculate paid leave, etc).

authorise the worker to determine how his work is performed[193]. By written agreement[194], working hours chosen by the worker are deemed to be hours worked.

Daily Rest Break

- A worker is entitled to a recess period of more than 30 minutes for every 4 working hours and more than 1 hour for every 8 working hours. Recess hours are not counted as working hours and are unpaid[195]. The recess period may be freely used by workers.

Weekly Rest Day

- An employer shall grant a weekly holiday (i.e. weekly rest day) with pay at least once a week on average, provided that the worker has worked all contractual working days in the week. Once a weekly holiday is fixed on a specific day (e.g. Sunday), it is possible that a worker who is absent from work on a working day in a week might use the weekly holiday without pay[196].

- There are special rules on holiday work (i.e. work on weekly rest day) by young persons and women[197].

---

193 These jobs include (1) research on and development of, new products or technologies and research in the areas of humanities, or social or natural sciences; (2) designing or analysis of data processing systems; (3) gathering, compilation or editing of materials for newspaper, broadcasting, or publication business; (4) designing or creation of clothing, interior decoration, industrial goods, advertisements, etc.; (5) work of a producer or director in the business of producing broadcasting programmes, motion pictures, etc.; and (6) other jobs determined by the Minister of Employment and Labour.

194 The written agreement shall contain the following items: (1) job description; (2) that the employer will not give the worker any detailed instructions on how the latter performs his work and how he arranges working hours; and (3) that calculation of the hours worked is based on written agreement.

195 KOILAF (2011), p. 56 and 61.

196 KOILAF (2011), p. 66.

197 When an employer intends to have a female aged 18 or above working on holiday, the employer shall obtain the consent of the female concerned. An employer shall not have a pregnant female or one aged less than 18 working on holiday, except in the following conditions and with permission from the Korean authority: (1) with consent from one aged less than 18; (2) with consent from a female with less than 1 year after childbirth; or (3) a female in pregnancy makes such a request.

Night Work

- As explained above, night work is work done between 10:00 p.m. and 6:00 a.m. of the following day. An employer is required to pay 1.5 times the ordinary wages or more for night work performed.

- There are special rules on night work for young persons and women[198].

Shift Work

- The Korean LSA does not stipulate provisions for shift work.

[198] When an employer intends to have a female aged 18 or above work from 10:00 p.m. to 6:00 a.m., the employer shall obtain the consent of the female concerned. An employer shall not have a pregnant female or one aged less than 18 work from 10:00 p.m. to 6:00 a.m., except in the following conditions and with permission from the Korean authority: (1) with consent from one aged less than 18; (2) with consent from a female with less than 1 year after childbirth; or (3) a female in pregnancy makes such a request.

Appendix 2.3

Working Hours Regulation in Japan

Legislation

- The main piece of legislation governing working hours in Japan is the Labour Standards Act (the Japanese LSA) enacted in 1947 within the framework of the Constitution of Japan.

Coverage and Exemptions

- The Japanese LSA does not apply to:

  (1) mariners;
  (2) businesses which employ only relatives who live together; and
  (3) domestic workers.

- Those provisions under the Japanese LSA governing working hours, rest periods, days off (i.e. weekly rest days) and annual paid leave do not apply to workers engaged in the following industries/positions:

  (1) agriculture, livestock rearing, sericulture or fishery industries;
  (2) supervision, management and handling confidential matters, regardless of the types of enterprise; and
  (3) persons engaged in monitoring and intermittent work, for which the employer has obtained permission from the relevant government authority.

Major Definitions

- There is no definition of working hours under the Japanese LSA[199].

Working Hours Limits

- According to the Japanese LSA, the working hours shall not exceed 8 hours per day and 40 hours per week excluding rest periods.

[199] However, there are provisions on the computation of working hours in the Japanese LSA: (1) the total hours worked shall be aggregated even if the hours are worked in different places; and (2) with regard to underground work, the working hours shall be deemed to be the time from entry into to exit from the mouth of the mine (including rest periods); but the provisions on rest periods do not apply to these workers.

- There are special rules for minors[200] and women[201].

Overtime Work and Overtime Pay

- There is no general statutory overtime limit under the Japanese LSA. However, the Japanese Government issued the Standards on the Limit of Overtime Work restricting the overtime hours for a fixed period. The employer has to enter into written agreement[202] with workers in order to extend the working hours, which should not exceed the limits set out in the Standards (**Table A2.3**):

Table A2.3: Overtime Limits in a Fixed Period

Fixed Period	Overtime Limits
1 week	15 hours
2 weeks	27 hours
4 weeks	43 hours
1 month	45 hours
2 months	81 hours
3 months	120 hours
1 year[203]	360 hours

[200] The provisions on daily and weekly maximum working hours apply to minors under 18 years of age while those on working hours systems, overtime work and work on days off do not. For minors aged 13-15, the limit of working hours is 7 hours per day and 40 hours per week including school hours. For minors aged 15 or above and under 18, given that the total working hours in a week does not exceed the daily and weekly maximum, if the working hours for any one day of the week has been reduced to no more than 4 hours, the working hours for the other days may be extended to 10 hours.

[201] If so requested by an expectant or nursing mother, the employer shall not have her work in excess of the daily and weekly working hours, overtime, on days off and at night.

[202] The written agreement shall state the valid period, the specific reason why workers are required to work overtime, type of jobs in which the workers are to be engaged, the number of such workers, hours for which such workers may work overtime in a day and a fixed period exceeding a day. There are also requirements on giving notice to the workers and the government authority.

[203] The overtime hours of employees, apart from not exceeding the relevant overtime limit in the fixed period (ranging from one week to three months) chosen, should not be more than 360 hours in a year. For example, if the fixed period is 2-week, the overtime limit should be 27 hours in 2 weeks and 360 hours in a year.

- For workers who work under the One-Year Variable Working Hours System (please refer to page 187) for which the applicable period exceeds 3 months, the overtime hours under the overtime work agreement must not exceed the limits set out in **Table A2.4**:

Table A2.4: Overtime Limits in a Fixed Period under the One-Year Variable Working Hours System

Fixed Period	Overtime Limits
1 week	14 hours
2 weeks	25 hours
4 weeks	40 hours
1 month	42 hours
2 months	75 hours
3 months	110 hours
1 year	320 hours

Note: The above overtime limits do not include working on days off and do not apply to: (1) construction business; (2) jobs involving driving automobiles; (3) jobs in research and development of new technologies and new products, etc.; and (4) business or jobs designated by the Japanese government authority.

- For underground work and work especially harmful to health, the overtime should not exceed 2 hours per day.

- In the event of an extraordinary need owing to disasters or other unavoidable events, the employer may extend the working hours[204] with the permission of the relevant government authority[205].

[204] The extension is applicable to the one-month variable working hours system, flexitime system, one-year variable working hours system and atypical adjustable working hours system for a week.

[205] If a situation is so urgent that time is not available to obtain such approval, the employer shall immediately obtain approval from the government authority ex post facto (i.e. after the fact). If the authority finds that the extension of working hours is not appropriate, the employer may be ordered to grant recess hours/days-off equivalent to the extended working hours (i.e. overtime hours) at a later time.

- The employers must give overtime pay to workers according to the rates set forth in **Table A2.5**:

Table A2.5: Pay Rate for Overtime Work under Different Occasions

Occasions		Pay Rate for Overtime Work[206]
(1)	Work exceeding statutory limit	1.25 times
(2)	Work exceeding statutory limit by 60 hours or more in a month	1.5 times (small and medium enterprises [SMEs]: 1.25 times)
(3)	Work on statutory days off	1.35 times
(4)	Night work (i.e. between 10:00 p.m. and 5:00 a.m.)	1.25 times
(5)	Night work exceeding statutory limit	1.5 times
(6)	Night work exceeding statutory limit by 60 hours or more in a month	1.75 times (SMEs: 1.5 times)
(7)	Night work on statutory days off	1.6 times

- SMEs[207] are exempted from the application of the increased rate of overtime allowances for items (2) and (6) above for the time being[208].

- For work exceeding 60 overtime hours per month, an employer may, subject

[206] According to the Standards on the Limit of Overtime Work issued by the Japanese Government, the employer must strive to stipulate, in a labour agreement on overtime work, an extra wage rate higher than the relevant legal rate.

[207] The definition of SMEs set forth in the Small and Medium Enterprise Basic Law as at 2011 (The last amendments to the definition of SMEs were made in 1999.):

Industry	Total capital amount or total investment amount		Number of regular workers
Retail	50 million Yen (HK$5 million) or less		50 or less
Services	50 million Yen (HK$5 million) or less	Or	100 or less
Wholesale	100 million Yen (HK$10 million) or less		100 or less
Others	300 million Yen (HK$30 million) or less		300 or less

The industry categorisation is based on the Japan Standard Industrial Classification.

[208] The government will consider the position of SMEs by 2013 upon reviewing the situation of the enforcement of the revised Japanese LSA and the development of overtime work.

to written agreement, grant paid compensatory leave to the worker instead of giving overtime pay.

Systems to Allow Flexibility

- The Japanese LSA allows a number of systems to enhance flexibility under the SWH framework, including "One-month Variable Working Hours System", "Flexitime System", "One-year Variable Working Hours System", "Atypical Adjustable Working Hours System for a Week", "Deemed Working Hours System for Work outside of the Workplace", "Discretionary Working System for Specialised Type of Work", and "Discretionary Working System for Planning Type of Work":

(A) One-month Variable Working Hours System

Under this system, the employer may request workers to work in excess of the statutory weekly and daily limits (i.e. 8 hours per day and 40 hours per week) so long as the average working hours per week during a fixed period of not more than 1 month does not exceed 40 hours.

The employer shall, in advance, submit the written agreement[209] to the relevant government authority. This agreement shall also define the valid period of the agreement.

(B) Flexitime System

Under this system, the starting and ending time for work is left to the worker's own decision pursuant to rules of employment[210] or the equivalent. With written agreement[211] in advance, the employer may request workers to work in excess of the statutory daily and weekly

[209] The written agreement can be reached with either a labour union organised by a majority of the workers at the workplace, or if there is no such union, with a person representing a majority of the workers. The term "written agreement" which appears in **Appendix 2.3** has the same meaning.

[210] An employer who continuously employs 10 or more workers shall draw up rules of employment covering items such as starting and ending working time, rest periods, days off, leaves, shift arrangements, computation and payment of wages, etc. The employer shall submit those rules of employment to the relevant government authority.

[211] The written agreement shall stipulate: (1) the scope of workers covered; (2) the settlement period; (3) the total working hours in the settlement period; (4) the standard daily working hours; (5) starting and ending time if the time period when workers have to work is fixed; and (6) starting and ending time if the time period when workers may choose to work or not is limited.

limits so long as the average working hours per week during a fixed period of not more than 1 month (called "settlement period") does not exceed 40 hours.

(C) One-year Variable Working Hours System

Under this system, the employer may request workers to work up to 10 hours per day and 52 hours per week so long as the average working hours per week over a period of more than 1 month but not exceeding 1 year, as set in the written agreement (called "the applicable period"), does not exceed 40 hours.

When the applicable period exceeds 3 months, the number of consecutive weeks in which weekly working hours exceed 48 hours shall be 3 or less.

(D) Atypical Adjustable Working Hours System for a Week

Under this system, the employers may request workers to work up to 10 hours per day provided that the workers' working hours do not exceed 40 hours per week. However, this system is limited to businesses which are often subject to wide fluctuations in daily business and hence have difficulty in fixing daily working hours, including retail, hotels, restaurants, and eating and drinking places with less than 30 regular employees[212].

(E) Deemed Working Hours System for Work outside of the Workplace

In cases where workers perform their work outside their workplace during all or part of their working hours, if the detailed instruction and supervision by the employer are not involved and it is difficult to calculate working hours, the number of hours actually worked shall be deemed to be the scheduled (i.e. contractual) working hours. However, if it would normally be necessary to work in excess of the scheduled working hours in order to accomplish the said work, the number of

[212] A notice of working hours for each day of a week shall be given to the workers concerned in writing before the first day of the week. However, the employer may, for emergency and unavoidable reason, change the working hours notice by notifying the workers in writing one day prior to the date on which the employer intends to change working hours. The employer shall also take into account the workers' preferences as far as possible when fixing working hours for each day of a week.

hours worked shall be deemed to be the number of hours normally required to accomplish such work. If an employer reaches a written agreement with a labour union or workers' representatives, the number of hours specified in such agreement shall be regarded as the number of hours normally required to accomplish the work. The valid period of such written agreement shall also be fixed.

(F) Discretionary Working System for Specialised Type of Work

In the case of the so-called "covered work"[213], where the methods of execution of the work need to be left to the workers' discretion owing to its nature and it is difficult for the employer to give concrete directions, the working hours engaged by the worker in the covered work as per the written agreement[214] shall be regarded as hours worked.

(G) Discretionary Working System for Planning Type of Work

This system is similar to the Discretionary Working System for Specialised Type of Work mentioned above, but specifically applies to workplace with establishment of a committee comprising the employer and workers' representatives[215].

---

213 Such business categories include (1) research and development of new goods or new technologies; or research in the human or natural sciences; (2) analysis or design of information processing systems (the term, information processing systems, shall mean any architecture that combines multiple elements for information processing using computers, and the basis for programme design); (3) coverage or editing of articles at a newspaper or other publication business; coverage or editing for the purpose of producing broadcast programmes as prescribed in item (iv) of Article 2 of the Broadcast Act (Act No. 132 of 1950), wire radio broadcast as prescribed in Article 2 of the Act concerning the Regulation of the Operation of Wire Radio Broadcasting Business (Act No. 135 of 1951), or cable television broadcast programmes as prescribed in paragraph (1) of Article 2 of the Cable Television Broadcasting Act (Act No. 114 of 1972) (hereinafter all such broadcast shall be collectively referred to as "broadcast programmes"); (4) work to develop new designs for apparel, interior decoration, industrial products, advertisements, etc.; (5) work of a producer or director at a business that produces broadcast programmes, motion pictures, etc.; and (6) any other work designated by the Minister of Health, Labour and Welfare other than those listed in the preceding items.

214 The written agreement should specify the following: (1) the work assigned to the worker (i.e. "covered work"); (2) hours calculated as working hours; (3) employer will not give concrete directions to the workers engaged in covered work; (4) employer will take measures to secure worker's health and welfare and handle worker's complaint; (5) the valid period of the agreement; and (6) the employer shall keep separate record of each worker during the valid period and for 3 years after expiration of valid period.

215 The committee is established with the aim of examining and deliberating on wages, working hours and other matters concerning working conditions at the workplace concerned and of stating its opinions regarding the said matters to the proprietor of the enterprise. The committee may adopt a resolution by a majority of four fifths or more of its members regarding relevant items (including working hours) and the employer should notify the relevant government authority of the said resolution. The resolution on the discretionary working system for planning type of work also prescribes other details such as the valid period and measures to secure the health and welfare of workers.

The work covered by this system (so-called "covered work") includes work of planning, drafting, researching and analysing matters for which the nature of the work is such that the methods of execution of the work for its proper accomplishment need to be left largely to the discretion of the workers, and the employer does not give concrete directions regarding the decisions on the means of execution and the allocation of time to the work.

Therefore, the relevant workers should possess the knowledge and experience, etc. necessary to accomplish the covered work properly. They are deemed to have worked the hours stipulated by the relevant resolution adopted by the committee.

- Apart from the above working hours systems, the Japanese LSA provides for special arrangements for other situations, including "Special Arrangement for Certain Businesses with Less than 10 Regular Employees" and "Working Hours of Stand-by Crew Members of Trains, etc.":

(H) Special Arrangement for Certain Businesses with Less Than 10 Regular Employees

With written agreement in advance, specified businesses[216] with less than 10 regular workers may request workers to work more than 8 hours in a specific day and 44 hours in a specific week, provided that the average weekly hours in a period not exceeding a month (called "settlement period") does not exceed 8 hours a day and 44 hours a week.

These arrangements are not applicable to workers under the One-year Variable Working Hours System and Atypical Adjustable Working Hours System for a Week.

(I) Working Hours of Stand-by Crew Members of Trains, etc.

An employer who is in designated transport industries[217] may request his workers (such as reserve crew members who work on board of a

[216] These businesses include retail, distribution, storage, rental and hairdressing, performance industries other than motion picture production or theatrical performances, healthcare and hygiene other than those giving medical treatment to patients or the infirm or caretaking business, as well as hotels, restaurants, eating and drinking places, hospitality and entertainment businesses.

[217] They are the transport of passengers or goods by roads, rails, tracks, cableways, ships or aircrafts.

train, diesel railcar, or electric railcar) to work for a period exceeding 8 hours a day or 40 hours a week, provided that the average weekly working hours for a fixed period of 1 month or less does not exceed 40 hours.

Daily Rest Break

- A worker is entitled to a rest period of at least 45 minutes if working hours exceed 6 hours; and a rest period of at least 1 hour if working hours exceed 8 hours. The rest period may be freely used by workers[218].

Weekly Rest Day

- An employer shall provide workers with at least 1 day off per week. Alternatively, the employer may provide workers with 4 days off or more during a 4-week period[219].
- Similar to the arrangement of overtime, an employer has to reach written agreement[220] with workers for working on days off.
- In the event of an extraordinary need due to disasters or other unavoidable events, the employer may extend the working hours with the permission of relevant government authority[221].

[218] The Japanese LSA is silent on whether the rest break is paid or not.

[219] The Japanese LSA is silent on whether the weekly rest day is paid or not.

[220] The written agreement shall state the valid period, the specific reason why workers are required to work overtime, type of jobs in which the workers are to be engaged, the number of such workers, hours for which such workers may work overtime in a day and a fixed period exceeding a day. There are also requirements on giving notice to the employees and the government authority.

[221] This is applicable to the same sets of working hours systems and with the same notification procedures as in the situation when overtime work is required in case of extraordinary need due to disaster or unavoidable event.

Night Work and Shift Work

- The provisions on night work or shift work under the Japanese LSA are mainly for minors[222] and women[223].

[222] The employers shall not have workers aged under 18 work between 10:00 p.m. and 5:00 a.m. (for children: 8:00 p.m. to 5:00 a.m. [someone is regarded as a child until the first 31 March that occurs on or after the day when he reaches the age of 15 years]); but this is not applicable to males aged 16 or above employed on a shift work basis. The limit of 10:00 p.m. and 5:00 a.m. may be changed to 11:00 p.m. to 6:00 a.m. (for children: 9:00 p.m. to 6:00 p.m.) in limited areas or for limited periods if it is deemed necessary by the Minister of Health, Labour and Welfare. For shift work, the worker may work until 10:30 p.m. or work from 5:30 a.m. with the permission of relevant government authority.

[223] If so requested by an expectant or nursing mother, the employer shall not have her work at night.

Appendix 2.4

Working Hours Regulation on the Mainland

Legislation and Objective

- On the Mainland, the main piece of legislation regulating working hours is the Labour Law of the People's Republic of China (the Labour Law) endorsed in 1994 and implemented in 1995. The Labour Law is a basic law to protect the legitimate rights and interests of the working class on the Mainland. This Law sets out provisions governing employment conditions, wages, labour safety and health, including working hours, rest and leave. Its legislative intent is to protect the legitimate rights and interests of workers, regulate labour relations, establish and safeguard the labour system that is adaptable to a socialist market economy, and promote economic development and social progress.

Coverage and Exemptions

- The Labour Law applies to all enterprises[224], individual economic organisations[225] and workers who form a labour relationship with them within the boundary of the People's Republic of China. State organs[226], institutions[227], social organisations[228] and workers who form a labour relationship with them shall also follow this Law. The aforesaid enterprises, individual economic organisations, state organs, institutions and

[224] An enterprise refers to an economic unit which is engaged in the manufacture of products, logistics or service industries and adopts independent economic accounting. It includes various types of enterprises such as factories, farms, companies, etc.

[225] An individual economic organisation refers to an operator of individually-owned business with generally less than seven employees. An operator of individually-owned business refers to a Chinese citizen who is capable of running an industrial and commercial business and has made a registration with State Administration for Industry and Commerce.

[226] State organs include the National People's Congress, the President of the People's Republic of China, the State Council, the Central Military Commission, the Local People's Congresses and Local People's Governments at various levels, the Organs of Self-Government of National Autonomous Areas, the People's Courts and the People's Procuratorates.

[227] An institution refers to a social service organisation engaged in such activities as education, technology, culture or public health, that the State, with an objective of social benefit, runs through state organs or other organisations using public assets.

[228] A social organisation refers to a non-profit-making social group voluntarily formed by Chinese citizens to realise shared objectives of the members and organise activities in accordance with the regulations of the State.

social organisations to which the Labour Law is applicable are collectively referred to as "employing units".

- The Labour Law is not applicable to civil servants, staff of institutions and social organisations which adopt a system comparable to the civil service, as well as agricultural workers, serving soldiers and home-based nannies, etc.

Major Definitions

- There are no provisions defining "working hours" under the Labour Law.

Working Hours Limits

- According to the State Council Order - Decision on Amending the "Decision of State Council Regarding Working Hours of Staff and Workers", with effect from 1 May 1995, the State shall practise a working hours system wherein every worker shall work 8 hours a day and 40 hours a week on the average. This working hours system, known as the Standard Working Hours System or Standard Working System, is the most commonly used working hours system on the Mainland. It also serves as the basis and reference standard for calculation under other special working hours systems. According to the Measures for the Implementation of the "Provisions of the State Council on Working Hours for Staff and Workers", completion of production process and tasks, as well as no reduction of workers' and staff's income, shall be guaranteed upon implementation of this working hours system.

Overtime Work

- According to the Labour Law, an employing unit may prolong working hours after consultation with its trade union and the workers. The working hours to be prolonged, in general, shall not exceed one hour a day; or shall be no more than three hours a day if such prolonging is called for due to special reasons and under the condition that the physical health of the workers is protected. The working time to be prolonged shall not exceed 36 hours a month. Female workers pregnant for more than seven months or during their breast-feeding of babies of less than one year old shall not be required to work overtime or during night time.

- The extension of working hours shall not be restricted by the above provisions in the following circumstances:

  (1) in emergencies when the life and health of the workers and property safety are threatened due to natural disasters, accidents or other causes;

  (2) when urgent repairs are necessary in the event of breakdown of production equipment, transportation lines or public facilities that affect production and public interests; and

  (3) other cases as provided for by law or administrative decrees[229].

Overtime Pay

- An employing unit shall pay the workers wages for working beyond the standard working hours according to the following standards:

  (1) pay not less than 1.5 times of wage for overtime work beyond the statutory daily working hours;

  (2) for work on a rest day, time-off in lieu should be given first; if it cannot be given, not less than 2 times of wage should be given; and

  (3) pay not less than 3 times of wage for working on statutory holidays.

Systems to Allow Flexibility

- According to the Measures Concerning Examination and Approval of Implementation by Enterprises of the Flexible Working Hours System and the Comprehensive Working Hours System, the Flexible Working Hours System and Comprehensive Working Hours System are implemented in parallel on the Mainland. As such, there are currently three types of Statutory Working Hours Systems on the Mainland, namely the Standard Working Hours System, Flexible Working Hours System and Comprehensive Working Hours System.

[229] These cases include: (1) there must be no interruption to work during statutory holidays and rest days, and production, transportation or business must be delivered in a continuous manner; (2) inspection and maintenance of facilities must be conducted during suspension of production on statutory holidays or rest days; and (3) the overtime work aims to accomplish emergency production tasks on national defence or other emergency production tasks outside the national plan as assigned by superiors, as well as emergency tasks of acquisition, transportation and processing of agricultural by-products for commercial and supply and marketing enterprises during peak seasons.

- Where an employing unit cannot adopt the Standard Working Hours System due to the particularities of production, the Flexible Working Hours System or Comprehensive Working Hours System can be implemented upon approval of the Ministry of Human Resources and Social Security.

(A) Flexible Arrangements under the Standard Working Hours System

On the basis of the Standard Working Hours System, if needs arise in production, an employing unit may extend or reduce the working hours or implement piece-rated working hours according to the law.

Extension of working hours means that an employing unit arranges for its employees to work beyond the standard working hours after they have completed the fixed or required number of tasks. Working on a statutory holiday at the request of an employing unit is referred to as working overtime, while working beyond statutory daily working hours is referred to as working extra hours.

Reduction of working hours means that the number of working hours per working day or the number of working days per week of a worker is less than those under the Standard Working Hours System. An employing unit may reduce working hours as appropriate in light of special conditions of labour work or special circumstances. Currently, industries or staff and workers subject to the reduced working hours system on the Mainland mainly include:

(1) Staff and workers in chemical, metallurgical and textile industries, etc. which involve heavy workload, toxic and harmful substances and are overly stressful may work less than 8 hours per day. Industries which require more physical energy, such as construction, refinery, geology, exploration, forest harvesting, loading and transport, may adopt various forms of reduced working hours system according to the characteristics of the industries or departments.

(2) Night-shift workers (see the section on night work).

(3) For female workers whose babies are less than one year of age, the employing unit should allow them to feed their babies (including artificial feeding) twice during each shift of work, each for 30 minutes.

(4) The working hours of workers between the ages of 16 and below 18 (i.e. underage workers) in state enterprises, collectively owned enterprises, individually owned enterprises and joint ventures shall not exceed eight hours.

For workers doing piece-rated jobs[230], an employing unit should reasonably determine the quotas and piece rate in accordance with the standard working hours provisions. Besides, an employing unit shall ensure that workers can enjoy standard working hours without reduction of income from piece-rated jobs.

(B) Flexible Working Hours System

If an employing unit is unable to implement the Standard Working Hours System due to the particularities of production, it may, upon approval by the Ministry of Human Resources and Social Security, introduce the Flexible Working Hours System to staff and workers who meet the following criteria:

(1) high-level managerial staff, field staff, sales staff, some staff on duty shift and other staff and workers whose job nature makes it difficult to apply the Standard Working Hours System in the enterprise;

(2) long-distance transportation staff, taxi drivers, some loading staff of railways, ports and warehouses, and staff and workers who need to work flexibly due to the special nature of their work in the enterprise; and

(3) other staff and workers for whom the Flexible Working Hours System is suitable due to the particularities of production, their special working needs or scope of duty.

Employing units which have obtained approval for adopting the Flexible Working Hours System may arrange for staff and workers to work overtime or extra hours according to their production needs. Apart from statutory holidays, other working periods shall not be counted as overtime work; it is not necessary for employing units to pay overtime wages separately. For overtime work on a statutory holiday,

[230] Piece-rated system (also known as piece-rated working hours system) is a work arrangement under which remuneration is determined by the number of compliant products or tasks completed by workers.

enterprises shall pay staff and workers not less than three times of the wage. However, the employing unit shall adopt appropriate measures such as focused work and rest, shift rest and day offs, and flexible working hours with a view to ensuring the right to rest and compensatory leave of workers as well as the smooth completion of production tasks.

(C) Comprehensive Working Hours System

The Comprehensive Working Hours System refers to a system based on the Standard Working Hours System and under which total working hours are calculated comprehensively on a weekly, monthly, quarterly or annual basis as a cycle. In a comprehensive calculation cycle, the actual working hours on a particular working day may exceed 8 hours, but the average working hours per day and per week must be the same as the statutory standard working hours. If the actual total working hours in a cycle exceeds the standard working hours, the portion in excess of the statutory standard shall be regarded as extension of working hours. The employing unit is then required to pay workers overtime wages for working beyond the standard working hours. Besides, the average monthly extended hours demanded by enterprises must not exceed 36 hours. An enterprise may apply for implementing the Comprehensive Working Hours System upon examination and approval of its application by the relevant authority. The Comprehensive Working Hours System may apply to staff and workers who meet the following requirements:

(1) staff and workers in such trades as transportation, railway, postal service, water transport, air transport and fisheries, who need to work on a continuous basis due to the special nature of their work;

(2) some staff and workers in such trades as geological and resource exploration, construction, salt production, sugar production and tourism, etc. whose work is subject to seasonal and natural conditions; and

(3) staff and workers in any other trades suitable for the implementation of the Comprehensive Working Hours System.

Daily Rest Period

- The Labour Law stipulates that workers shall be entitled to rest and leave. However, it does not set out provisions on daily rest periods or whether rest periods shall be part of the working hours.

Weekly Rest Day

- An employing unit shall ensure that every worker has at least one day of rest per week, i.e. a continuous period of 24 hours' rest. The Labour Law is silent on whether the rest day is paid or not.

Night Work

- Night work normally refers to work performed according to the three-shift system and whose working hours span from 10:00 p.m. to 6:00 a.m. of the following day. As night work will change a worker's normal living pattern and place additional demands on his health, the working hours under the Standard Working Hours System for night shift workers may be reduced by one hour (i.e. 7 hours of work) and a night shift allowance shall be granted to workers[231].

Shift Work

- The Labour Law does not stipulate provisions for shift work.

[231] For activities which involve continuous production processes, such as steel smelting and electricity generation, there is no need to reduce the night shift working hours, but a night shift allowance shall be granted to workers.

Appendix 2.5

Working Hours Regulation in Macao

Legislation and Objective

- The existing legislation governing working hours in Macao is the Labour Relations Law (Law No. 7/2008)[232] which was enacted in 2008 and came into force in 2009. Chapter IV of the Labour Relations Law stipulates provisions for working time, night work and shift work, weekly rest, mandatory holidays, annual leave, etc.

- The Labour Relations Law was enacted to amend the original labour legislation (i.e. Labour Relations Juridical System) to meet social and economic development needs; adopt a more flexible approach to safeguard the rights and benefits of employers and employees having regard to the characteristics of individual industries; balance the interests of employers and employees, etc. On working time, the Labour Relations Law has enhanced protection for employees with respect to their right to rest, allowed greater flexibility for setting "normal working hours", and provided for the night work and shift work systems.

Coverage and Exemptions

- In principle, the Labour Relations Law shall apply to all labour relationships in all fields of activity except:

  (1) public employment relations that confer the employee the identity of a Public Administration employee;

  (2) labour relations established between spouses or persons in a de facto marital relationship (cohabiting for at least 2 years), or labour relations established between cohabiting persons who are related in the second degree of consanguinity (e.g. parents, children, brothers or sisters); and

[232] The first piece of labour legislation in Macao was Decree-Law No. 101/84/M enacted in 1984, which was then amended by Decree-Law No. 24/89/M "Labour Relations Juridical System" enacted in 1989. The Labour Affairs Bureau proposed to amend the Labour Relations Juridical System prior to the handover of Macao in 1999, and submitted a work report to the Standing Committee for the Coordination of Social Affairs (the Standing Committee) in December 2000. Discussions were carried out between employer and employee representatives of the Standing Committee, while a consensus was sought by Government representatives. In 2007, the consensus document was submitted to the Executive Council for deliberation, after which the bill was tabled at the Legislative Assembly. The Labour Relations Law was passed by vote at the Legislative Assembly on 5 August 2008, and took effect from 1 January 2009.

(3) relations established under apprenticeship or vocational training system.

- The Labour Relations Law stipulates that the following shall be governed by special legislation:

  (1) labour relations established with foreign workers;
  (2) labour relations with seafarers; and
  (3) part-time work.

- Employees who perform the following work may be exempted from the limit on starting and ending time of work[233], and the exemption shall be specified in written agreement:

  (1) work in the leadership, managerial positions, and field monitoring;
  (2) work in places outside of the workplaces and not subject to immediate control of their superiors;
  (3) academic or research work without supervision of any superior; and
  (4) domestic work[234].

Major Definitions

- Key terms relevant to working hours as defined under the Labour Relations Law are set out as follows:

Normal working hours[235]	- The period of time for which the employee is obliged to work per day and per week
Overtime work	- Work performed beyond normal working hours

[233] The employer shall have the power to set the working time schedule for the employees in his service. Any changes shall be subject to mutual agreement between the parties. Employees who are exempted from the working time schedule may be exempted from observation of normal working hours, without prejudice to their right to a break (a break period of not less than 30 consecutive minutes, so that the employee will not work more than 5 consecutive hours), weekly rest, mandatory holidays (i.e. statutory holidays), vacations (i.e. annual leave) and other guarantees.

[234] "Domestic work" means work aimed to meet the specific needs of a household or its equivalent, and its members.

[235] The normal working hours of an employee do not include the time needed for preparation to start work and for concluding the transaction activities and services which have been started but not yet finished, but the aforementioned time as a whole shall not exceed 30 minutes per day.

Working Hours Limit

- Normal working hours shall not exceed 8 hours per day and 48 hours per week.

- The daily and weekly working hours limits under different circumstances are set out in **Table A2.6**:

Table A2.6: The Daily and Weekly Working Hours Limit under Different Circumstances

Situation of Labour Relations	Daily Period not Exceeding	Weekly Period not Exceeding
General situation	8 hours	48 hours
Pursuant to operational characteristics of the enterprise and agreement between employer and employee (Please refer to the section on "System to Allow Flexibility")	12 hours	48 hours

Overtime Work[236]

Overtime Work by Agreement

- In general, overtime work may be performed by prior request from the employer with the employee's consent, or at the initiative of the employee with prior consent of the employer. There must be record attesting the consent.

Mandatory Performance of Overtime Work

- Employers may arrange for employees to work overtime irrespective of his consent in the following circumstances:

  (1) when cases of force majeure occur, provided that the working hours of the employee does not exceed 16 hours per day;

[236] The employer is obliged to give the employee a break period (not less than 30 consecutive minutes so that the employee will not work for more than 5 consecutive hours), regardless of whether the overtime work is performed by agreement or compulsorily.

(2) when the employer faces great loss, provided that the working hours of the employee does not exceed 16 hours per day; and

(3) when the employer faces an unpredictable increased amount of work, provided that the working hours of the employee does not exceed 12 hours per day.

Compensatory Rest Break

- An employee is entitled to compensatory rest break (i.e. additional period of rest with pay) within 15 days immediately after the performance of mandatory overtime work. The date is chosen by the employee through consultation with the employer. If the employer and the employee fail to reach an agreement, the days on which the rest is taken shall be set by the employer[237].

- The arrangements for compensatory rest break are detailed in **Table A2.7**:

Table A2.7: The Compensatory Rest Break Given according to the Reasons for Mandatory Overtime Work and the Working Hours

Reason for Mandatory Overtime Work	Working Hours	Compensatory Rest Break
Cases of force majeure occurring or employer faces great loss	Working hours reach 16 hours	Rest period shall not be less than 24 hours
	Working hours are less than 16 hours	Rest period shall be calculated in proportion to the working hours
Employer faces an unpredictable increased amount of work	Working hours reach 12 hours per day in 2 consecutive days	Rest period shall not be less than 24 hours
	Total working hours are less than 24 hours in 2 consecutive days	Rest period shall be calculated in proportion to the working hours

[237] The provision aims to reduce the employer's requests for mandatory provision of overtime work as the employer is required to give the employee more remuneration, plus an additional paid period of rest.

Overtime Pay

- The performance of overtime work by agreement shall entitle the employee 1.2 times of the normal remuneration.

- The mandatory performance of overtime work shall entitle the employee 1.5 times of the normal remuneration and compensatory rest break.

- In light of the operational characteristics of the enterprise, an employer and an employee may enter into agreement that the employee work more than 8 hours a day, overtime pay will only be given for work outside the normal working hours arranged. For example, the agreed working hours on a day is 10 hours and an employee worked 12 hours, the employer should give 2 hours of overtime pay.

- For employees exempted from the limit of starting and ending time of work, the provisions on overtime work and overtime pay do not apply to them.

- The overtime remuneration shall not prejudice the employee's right to extra monetary compensations, especially for night work and shift work. For example, if the normal working time schedule of an employee does not include night hours but the employee performs overtime work during such period, he shall be entitled to extra remuneration for the night work in addition to the overtime remuneration.

Remuneration for Work on Rest Day or Statutory Holidays

- An employer may arrange for an employee to work on a weekly rest day or mandatory holiday (i.e. statutory holiday) without his consent under the following circumstances:

  (1) when the employer faces a great loss or in cases of force majeure;
  (2) when there is an unforeseen increase in the amount of work; and
  (3) when the employee must provide work to ensure the continued operation of the enterprise.

- If an employer requests an employee to work on a weekly rest day or mandatory holiday, the employee shall be entitled to an additional day of compensatory rest, the date of which is designated by the employer, within 30 days after the performance of work on that weekly rest day or mandatory holiday, as well as monetary compensation as set out in **Table A2.8**:

Table A2.8: Remuneration for Working on a Weekly Rest Day or Mandatory Holiday

Type of Employees	Monetary Compensation
Monthly-rated	An additional day's basic remuneration
Hourly- or daily-rated	Remuneration equivalent to the work performed + one day's basic remuneration
Piece-rated	Remuneration equivalent to the work performed + one day's basic remuneration

- In addition, if the employer requests the employee to work on a mandatory holiday, the said compensatory rest day may be substituted by agreement with a day's basic remuneration as compensation. However, the employer shall make the arrangement if the employee chooses compensatory rest.

- If the employee works on a weekly rest day voluntarily, he shall be entitled to an additional rest day as compensation, the date of which is designated by the employer, within 30 days after the performance of the work. In case the employee does not make arrangement for the said compensatory rest day, the employee shall be entitled to compensation as set out in the above table.

System to Allow Flexibility

- In light of the operational characteristics of the enterprise, an employer may enter into agreement with his employee that the daily working hours may exceed the 8-hour limit, provided that the employer shall ensure that the employee has 10 consecutive hours and a total of not less than 12 hours of rest per day, and that the working hours shall not exceed 48 hours per week.

Daily Rest Period

- An employer is obliged to provide an employee a break of not less than 30

consecutive minutes, so that the employee will not work continuously for more than 5 hours. The break shall be counted towards the normal working hours if the employee is not allowed to leave the workplace freely.

- The employer shall ensure that the employee shall have 10 consecutive hours and a total of not less than 12 hours of continuous rest per day, and that the working hours shall not exceed 48 hours per week.

Weekly Rest Day

- An employee shall be entitled to a paid rest day of 24 consecutive hours per week.

- The weekly rest day shall be arranged by agreement between the employer and the employee. The weekly rest period may not have weekly frequency if the nature of the enterprise's activity makes it impracticable, in which case the employee shall be entitled to 4 paid rest days per 4 weeks. The employer shall notify the employee, at least 3 days in advance, of the weekly rest days arranged in accordance with the operational need of the enterprise, regardless of whether the arrangement is made by mutual agreement or by the employer.

Night Work and Relevant Pay

- Night work refers to work performed between midnight and 6:00 a.m.

- An employee performing night work shall be entitled to 1.2 times of normal remuneration. However, the employee shall not be entitled to the said additional remuneration if he has been specifically hired to perform work including night hours.

Shift Work

- Shift work is work that must be performed by the employee without a fixed schedule and at different times.

- The arrangement of shift work is as follows:

  (1) When the business hours of an enterprise are longer than the maximum limits of the normal working hours, the employer shall have the right

to organise shift work and to arrange employees to perform the shift work, giving due consideration to the employee's interests and preferences.

(2) The arrangement of shift work shall be subject to the maximum limits of the normal working hours (i.e. not exceeding 48 hours per week) and shall guarantee the employee 10 consecutive hours and a total of not less than 12 hours of rest per day.

(3) The working time of shift work can be continuous or discontinuous. In case the working time is scheduled as discontinuous periods of work, there must be an interval of not less than two hours between consecutive periods of work, which shall not be counted in the normal working hours.

(4) If the working time begins in a day and ends in the following day, the hours of work performed shall be counted in the normal working hours of each respective day.

Shift Work Pay

General Situation

- An employee performing shift work shall be entitled to receive 1.1 times of normal remuneration. The employee shall not be entitled to the said additional remuneration if he has been specifically hired to provide shift work.

Other Situations

- An employee who has received additional monthly remuneration for performance of shift work shall not be entitled to any additional monetary compensation if the performance of shift work falls on a mandatory holiday in the same month, and the remuneration for shift work is 10% or more above the employee's basic remuneration, without prejudice to his entitlement to a paid compensatory rest day within 30 days of the mandatory holiday. An employee who has received monthly remuneration for the performance of shift work shall not be entitled to any additional remuneration for performing night work in the same month.

Appendix 2.6

Working Hours Regulation in Taiwan

Regulation and Objective

- In Taiwan, the main piece of regulation on working hours is the Labour Standards Act (Taiwan's LSA) enacted in 1984. The terms and conditions of any agreement between an employer and an employee, including labour contracts, wages, working hours, rests, leave and work rules, shall not be below the minimum standards provided in Taiwan's LSA. The intent of Taiwan's LSA is to provide for the minimum standards of working conditions, protect workers' rights and interests, strengthen employee-employer relations and promote social and economic development.

Coverage and Exemptions

- Taiwan's LSA shall apply to all forms of employee-employer relationships. As designated and promulgated by the relevant Taiwan authorities in charge of labour affairs, the Act shall not apply to some industries or workers having difficulties in applying Taiwan's LSA for reasons relating to the types of management, the administration system, the characteristics of work involved, etc.

- Currently, industries to which Taiwan's LSA shall not apply include:

  (1) farmers' organisations;
  (2) credit unions of farmers' and fishermen's associations;
  (3) international organisations and other foreign institutions;
  (4) other food and beverage services not elsewhere classified[238]; and
  (5) domestic help service.

[238] "Other food and beverage services not elsewhere classified" refer to small food stalls with set up not in the form of shops.

- Currently, workers to whom Taiwan's LSA shall not apply include:

  (1) workers in public agencies[239] and defence (excluding non-military staff);

  (2) workers in the public sector on academic research and service, public schools and kindergartens at all levels, special or social education institutions, vocational training institutions, etc.[240], as well as teachers and staff in private schools at all levels;

  (3) workers in public medical institutions and public social welfare organisations, as well as medical practitioners in the healthcare service sector;

  (4) workers in public arts and cultural sector, as well as coaches, players and adjudicators in the vocational sports sector;

  (5) lawyers in the legal service sector;

  (6) employers and appointed managers of business entities;

  (7) apprentices, foster workers, interns, and students under any business-education co-operation project; and

  (8) workers in other organisations not elsewhere classified[241].

- Regarding the following types of workers[242], as approved and announced by the relevant Taiwan authorities in charge of labour affairs, separate written agreement shall be reached between the employer and the employee in respect of working hours, rest days, statutory holidays and female workers' night work. Such agreements shall be submitted to the local competent authorities for approval and record but shall not be subject

---

239 Taiwan's LSA still applies to artisans, workmen, drivers, temporary staff, cleaners, parking fee collectors and assistants to local elected representatives in public agencies.

240 Taiwan's LSA still applies to artisans, workmen, drivers and temporary staff in the public sector mentioned in items (2), (3) and (4) of this paragraph.

241 Taiwan's LSA applies to Foundation for International Exchange, Foundation for Education and Culture, social associations, assistants appointed (elected) or employed by local representatives and workers of foundations established under the Organisation Acts. Taiwan's LSA does not apply to other organisations/foundations not mentioned above.

242 The relevant Taiwan authorities in charge of labour affairs have made a public announcement on the list of trades covered under the approved types of workers. Apart from managerial personnel in general trades, the list also includes designated accounting officers, aircrews, property agents, healthcare personnel working at designated medical establishments, as well as designated practitioners working in the insurance sector, securities sector, advertising sector, architectural services, construction industry, film industry, etc. Specified healthcare personnel working at designated medical establishments (e.g. medical and technical personnel working in operation rooms, accident and emergency departments, and intensive care units, etc) will be removed from the list with effect from 1 January 2014.

to relevant restrictions imposed by Taiwan's LSA.

(1) supervisory and managerial personnel[243] or professional workers with designated responsibility[244];

(2) monitoring or intermittent jobs[245]; and

(3) other types of job of special nature[246].

Major Definitions

- Although there is no specific definition of "working hours" under Taiwan's LSA, the calculation method of working hours is set out as follows:

  (1) If the regular working hours span two calendar days, the working hours shall be combined for calculation purposes.

  (2) If the working hours of a worker cannot be readily calculated owing to special errands or other reasons requiring him/her to attend to work outside the workplace, his regular working hours shall be deemed to be his working hours. However, this shall not apply where his actual working hours can be proved.

  (3) When a worker works in different workplaces belonging to the same business entity or the same employer, the working hours in each of these workplaces shall be added together, including the travelling time required between the workplaces.

  (4) For workers working in a pit or tunnel, the working hours shall begin from the time of entry to the pit or tunnel and shall end at the time of departure therefrom.

- "Extended working hours" is defined as the hours worked in excess of 8 hours per day or a total of 84 hours every two weeks. However, in the

---

243 Supervisory and managerial personnel refer to personnel at the supervisory level employed to take charge of business operation and management, and vested with authority to decide on matters of general workers pertaining to employment, dismissal or labour conditions. Managerial personnel are called "administrative workers" in the English text of Taiwan's LSA.

244 Professional workers with designated responsibility refer to workers who complete designated assignments with specialised knowledge or skills and are held responsible for the success and failure of such assignments.

245 Monitoring jobs refer to jobs mainly of monitoring nature in designated establishments, whereas intermittent jobs refer to jobs performed in an intermittent manner. For example, security services can be of intermittent and monitoring nature.

246 For example, bodyguard is a job of special nature.

case of working hours adjusted according to 2-week flexitime, 4-week flexitime or 8-week flexitime, "extended working hours" shall mean the hours worked in excess of the adjusted working hours[247].

Working Hours Limits

- The regular working hours of a worker shall not exceed 8 hours per day and a total of 84 hours every two weeks.

- An employer shall not compel a worker to accept work beyond regular working hours if the worker is unable to do so on account of poor health or other proper reasons.

Overtime Work

- When an employer has a necessity to have his employee perform the work outside regular working hours, he may extend the working hours with the consent of a labour union, or if there is no labour union in a business entity, with the approval of a labour-management conference[248]. However, the extension of working hours combined with the regular working hours shall not exceed 12 hours a day. The total number of overtime shall not exceed 46 hours a month.

- Due to the occurrence of an act of God, an accident, or an unexpected event and when an employer has a necessity to have his employee perform the work outside regular working hours, the working hours may be extended in accordance with the above requirements on the total daily working hours or the cap on monthly extended working hours. Although no prior consent of the labour union or the employee is required, the employer shall notify the labour union within 24 hours after the beginning of the extension. If there is no labour union, report shall be made to the local competent authorities for record. Subsequent to the overtime work, the employer shall offer the worker suitable time-off.

---

247 Please refer to the section on "Systems to Allow Flexibility" for the details of the flexitime systems.

248 In the following paragraphs, "with the consent of a labour union" also means "with the consent obtained at a labour-management conference if there is no labour union in a business entity".

- Except for supervisory duties[249] or in the occurrence of an act of God, an accident, or an unexpected event, the working hours of a worker in a pit or tunnel shall not be extended.

Overtime Pay

- In the event of extension of working hours by the employer, the worker's overtime pay shall be paid based on the following calculation:

  (1) where the overtime work does not exceed two hours, the worker shall be paid, in addition to the regular hourly wage[250], at least an additional one-third of the regular hourly rate;

  (2) where the overtime work is on top of the two hours mentioned, but the total overtime work does not exceed four hours, the worker shall be paid, in addition to the regular hourly wage, at least an additional two-thirds of the regular hourly rate[251]; and

  (3) where the overtime work is required in the occurrence of an act of God, an accident or unexpected incidents, the worker shall be paid two times the regular hourly rate.

- If a worker has to work during rest days, statutory holidays or annual leave, his overtime pay shall be calculated on the following basis:

  (1) When an employer has obtained the consent of a worker to work on a holiday, he shall pay the worker at double the regular rate for such work.

  (2) An employer shall also pay a worker at double the regular rate where, with the consent of the worker or the labour union, the worker is required to work to meet urgent seasonal requirements.

  (3) An employer may require workers to suspend all leaves of absence referred to above if an act of God, an accident or an unexpected event

---

249 Supervisory duties of pit operations include: (1) supervision of pumping machines; (2) supervision of wind pressure machines and cooling equipment; (3) supervision of safety alarm equipment; and (4) supervision and the recording of production and construction work.

250 Wage means the remuneration which a worker receives for his services rendered, including wages, salaries, bonuses and allowances and any other regular payments regardless of the name which may be computed on an hourly, daily, monthly or piecework basis, and whether payable in cash or in kind.

251 There is no legal provision on how wages should be paid for overtime work beyond 4 hours of the statutory regular working hours. The rate can be decided by agreement between the employer and the employee but should not be less than, on top of the regular hourly wage, an additional two-thirds of the regular hourly rate.

requires continuance of work provided, however, that the worker concerned receives wages at double the regular rate for work during the suspended leave, and then is also granted leave to make up for the suspended leave of absence. In respect of the suspended leaves of absence, the employer shall, within 24 hours after the end of suspension, file a report stating details and reasons with the local competent authorities for the approval and record of the suspension.

(4) If it is deemed necessary by the local competent authorities, the annual paid leave of workers in public utilities may be suspended, for which the employer shall pay wages at double the regular rate.

Systems to Allow Flexibility

- According to Taiwan's LSA, an employee's regular working hours may be changed under specific conditions. Such working time adjustment is generally known as the "flexitime" system (also known as "modified work schedule" in Taiwan), which comprises "2-week flexitime", "4-week flexitime" and "8-week flexitime".

(A) 2-week Flexitime

For the industries to which Taiwan's LSA shall apply, with the consent of a labour union, an employer may distribute a worker's regular working hours (i.e. not exceeding 8 hours per day) of any two working days in every two weeks to other working days within that period, provided that no more than 2 hours shall be distributed to each of the other working days. However, the total number of working hours shall not exceed 48 hours per week.

(B) 4-week Flexitime

For the industries specified by the Taiwan authorities[252], upon the consent of a labour union, an employer may change a worker's working hours according to the following principles:

(1) The regular working hours in 4 weeks (i.e. 168 hours) may be distributed to other working days within that period, but no more than 2 hours shall be distributed to each of the other working days.

(2) When the working hours of a regular working day reaches 10 hours, the extended working hours shall not exceed 2 hours for that day.

(3) For every 2 weeks, the employee shall be granted at least 2 rest days as regular leave.

(4) Female workers, except for those who are pregnant or are feeding their babies, are not subject to the restrictions on night work under Taiwan's LSA. However, the employer must provide them with the necessary safety and health facilities.

(C) 8-week Flexitime

For the industries specified by the Taiwan authorities[253], with the consent of a labour union, an employer may adjust the regular working hours in every 8 weeks (i.e. 336 hours), provided that the regular working hours shall not exceed 8 hours per day and the total number of

[252] Industries specified by the relevant Taiwan authorities to which the 4-week flexitime is applicable include: sanitary and pollution preventing services; gasoline stations; banking; trust and investment; information services; retail trade of general merchandise; health care services; security; architectural and engineering technical services; legal services; credit co-operatives; international and general tourist hotels; securities; general advertising services; real estate agencies; public agencies; motion picture projection; construction managers; international trade; futures; insurance; accountant services; deposit insurance; social welfare services; business management consultation services; bills financing; food and beverage services; entertainment; defence; credit card companies; research and service institutes; hotels and motels; barber and beauty shops; other education and training services; universities and colleges; motion picture films and video tapes rental and leasing; social education; market place and exhibit management; and retail trade of watches, clocks and spectacles.

[253] Industries specified by the relevant Taiwan authorities to which the 8-week flexitime is applicable include: manufacturing; construction; chartered bus transportation; air transportation; harbour services; postal services; telecommunications; constructional investment; wholesale and retail trade; copying services; automotive beauty shops; household electrical appliances and electronic products repair shops; motorcycle repair shops; other repair shops not elsewhere classified; laundry services; photofinishing shops; bathhouses; tailor shops; other professional scientific and technical services; consultation services; software publishers; agriculture, forestry, fishery and animal husbandry; rental and leasing; and water supply.

working hours shall not exceed 48 hours per week.

Daily Rest Break

- A worker shall be permitted to have a break for at least 30 minutes after having worked for 4 continuous hours provided that such break may be rescheduled by the employer to be taken within other working hours if a rotation system is adopted or work of a continuous or urgent nature is involved.

- Where a female worker is required to breast-feed her baby of less than one year of age, the employer shall permit her to do so twice a day, for 30 minutes each time, besides the rest period set forth above. The breast-feeding time shall be deemed as working time.

Weekly Rest Day

- A worker shall have at least 1 regular day off in every 7 days as regular leave.

- If the rest day agreed between an employer and an employee after negotiations falls on a statutory holiday, both parties should work out under mutual agreement whether compensatory leave should be granted on the day following the statutory holiday.

Night Work and Shift Work

- If a rotation system of a day and night shift is adopted, workers on such shifts shall be rotated on a weekly basis except as otherwise consented by the worker. Those workers who are rotated on this basis shall be granted appropriate recess.

- No child worker (those aged over 15 but less than 16) shall be permitted to work between 8:00 p.m. and 6:00 a.m. of the following day.

- Except in the occurrence of an act of God, an accident, or an unexpected event, an employer must not make his female workers perform their work between 10:00 p.m. and 6:00 a.m. of the following day. However, with the consent of a labour union and the following requirements met, the

preceding restrictions shall not apply[254]:

(1) The necessary safety and health facilities are provided.

(2) Where there is no public transportation facilities available, transportation facilities are provided or dormitories for female workers are arranged.

[254] Even if the said requirements are met or even in the event of the occurrence of an act of God, an accident, or an unexpected event, the employer shall not force his female workers who are pregnant or are feeding their babies to perform their work between 10:00 p.m. and 6:00 a.m. of the following day. Besides, when a female worker is unable to work between 10:00 p.m. and 6:00 a.m. of the following day due to health or other justifiable reasons, the employer shall not force her to do so.

Appendix 2.7

Working Hours Regulation in Australia

Legislation and Objective

- In Australia, working time is mainly regulated by the Fair Work Act 2009 (Cth) (FW Act). "National Employment Standards" (NES) under the FW Act offer 10 basic minimum employment standards[255] (including working hours) that apply across the country.

- The NES are complemented by modern awards, which are legally binding instruments created by the industrial tribunal, currently called the Fair Work Australia. Modern awards regulate employment terms (e.g. the range and number of hours of work, various types of leave, and rest breaks) on an industry or occupation basis[256]. Together with the NES, modern awards provide a fair and relevant minimum safety net for employees.

- The FW Act took effect in 2009. Its objective is to provide a balanced framework for co-operative and productive workplace relations that promotes national economic prosperity and social inclusion for all Australians by, among others:
  - providing workplace relations laws that are fair to working Australians, are flexible for businesses, promote productivity and economic growth for Australia's future economic prosperity and take into account Australia's international labour obligations;
  - ensuring a guaranteed safety net of fair, relevant and enforceable minimum terms and conditions through the NES, modern awards and national minimum wage orders;
  - assisting employees to balance their work and family responsibilities by providing for flexible working arrangements; and
  - acknowledging the special circumstances of SMEs.

[255] The NES include maximum weekly hours, requests for flexible working arrangements, parental leave and related entitlements, annual leave, personal/carer's leave and compassionate leave, community service leave, long service leave, public holidays, notice of termination and redundancy pay.

[256] Selected items (e.g. hours of work and overtime pay rate) as regulated under modern awards in certain industries are given in **Annex** under **Appendix 2.7**.

Coverage and Exemptions

- The FW Act covers all employment by constitutional corporations[257], and in (1) Victoria, Australian Capital Territory and the Northern Territory: all other employment; (2) New South Wales, Queensland and South Australia: all other private sector employment; and (3) Tasmania: all other private sector and local government employment. Employers and employees not covered by the FW Act remain covered by the applicable State industrial laws.

- The NES apply to all employees covered by the FW Act. Terms in modern awards, enterprise agreements[258], and employment contracts cannot exclude or provide for an entitlement less than that provided for by the NES, and have no effect to the extent they purport to do so.

- Modern awards may cover a particular industry or sector (such as retail or insurance); or apply on an occupation basis (e.g. clerical work). Modern awards seldom apply to every type of employees within an industry or occupation (e.g. senior managers are usually excluded). There are also jobs that have remained modern award-free.

- Modern awards may not apply to a "high income employee"[259] if (1) an employer gives a high-income employee a written guarantee of annual earnings for a period of 12 months or more; and (2) the employee accepts the guarantee. Besides, collective enterprise agreements also supersede the modern awards if they are overall better off than the awards.

Major Definitions

- The FW Act does not define working time or working hours as such.

- "Working day" is defined as a day that is not a Saturday, Sunday or public

[257] The term "constitutional corporation" covers foreign corporations, and trading and financial corporations formed within the limits of the Commonwealth.

[258] An enterprise agreement is a collective agreement between one or more employers and certain group of their employees as specified in the agreement. Modern awards do not apply to the employers and employees if they have an enterprise agreement in place which is better off than the award.

[259] A high-income employee means an employee whose annual earnings exceed a "high income threshold". The high income threshold is adjusted by the Fair Work Regulations 2009, and indexed to rise each financial year. The figure adjusted on 1.7.2012 for full-time employees is A$123,300 (HK$937,080). A pro rata figure can be derived for part-time employees.

holiday.

- The "ordinary hours of work" are set out in the modern awards or enterprise agreements. For a modern award/enterprise agreement-free employee, they are the hours agreed by the employee and his employer. If there is no such enterprise agreement, the ordinary hours of work of the employee in a week are: (1) for a full-time employee — 38 hours; or (2) for an employee who is not a full-time employee — the lesser of: (a) 38 hours; and (b) the employee's usual weekly hours of work.

- An employee's working hours include any hours of authorised leave or absence, whether paid or unpaid, that is authorised: (1) by the employer; or (2) by or under a term of the employee's employment; or (3) by or under a Commonwealth, State or Territory law, or an instrument in force under such a law.

Working Hours Limits

- The FW Act only prescribes maximum weekly hours as part of the NES, but not daily working hours. Under the NES, the ordinary hours of work in a week are 38.

- The maximum weekly hours of work for full-time employees are 38 hours plus any reasonable number of additional hours during which they are required or requested to work. However, an employee may refuse to work additional hours if they consider the hours unreasonable[260].

Overtime Work and Overtime Pay

- The FW Act does not define overtime work or set overtime pay rate. It is envisaged that, where applicable, the hours that constitute overtime, and the

[260] In determining whether additional hours are reasonable or unreasonable, the following must be taken into account: any risk to the employee's safety and health; the employee's personal circumstances, including family responsibilities; the needs of the workplace or enterprise; whether the employee is entitled to receive overtime payments, penalty rates or other compensation for (or a level of remuneration that reflects an expectation of) working additional hours; any notice given by the employer to work the additional hours; any notice given by the employee of his intention to refuse to work the additional hours; the usual patterns of work in the industry; the nature of the employee's role and the employee's level of responsibility; whether the additional hours are in accordance with averaging provisions included in an award or agreement that is applicable to the employee, or an averaging arrangement agreed to by an employer and a modern award/an agreement-free employee; and any other relevant matter.

rates payable, will be provided for in modern awards[261].

- The only limit on prescribed overtime hours is that additional hours requested or required by an employer must be reasonable.

- Modern awards and enterprise agreements commonly impose overtime pay rates for work performed on a public holiday, but this is not guaranteed under the NES.

Systems to Allow Flexibility

- The FW Act allows for an averaging of working hours. It also creates, under the NES, a right for employees who are also parents to request flexible working arrangements. Furthermore, modern awards and enterprise agreements are required to have a flexibility term that permits the making of an "Individual Flexibility Arrangement" (IFA).

(A) Averaging of Hours of Work

Averaging of hours is used when an employee's actual hours vary from week to week but are averaged to determine compliance with restrictions on the maximum ordinary hours. It is not compulsory for an employer and an employee to enter into an averaging arrangement.

A modern award or enterprise agreement may include provisions for the averaging of hours of work over a specified period that is greater than a week. Employers and modern award/enterprise agreement-free employees may also agree in writing to an averaging arrangement to average their ordinary hours of work. However, the maximum averaging period is 26 weeks. Moreover, the average weekly hours over the period must not exceed: (1) for a full-time employee, 38 hours; or (2) for an employee other than a full-time employee, the lesser of 38 hours, and the employee's ordinary hours of work in a week.

[261] Overtime has two meanings in modern awards: (1) working in excess of the contractual hours of work; or (2) working any hours that fall outside the span of ordinary hours. For instance, overtime in (2) occurs when an employee is rostered to work on weekend while ordinary hours under that award cover only weekdays. For both (1) or (2), an employee working overtime is entitled to overtime pay at a rate specified under the award. An award might, for example, specify a requirement to pay 1.5 times for the first three hours of overtime, or 2 times for any further overtime beyond that.

In either of the above cases, hours worked in excess of the above average weekly hours will be treated as additional hours. A modern award or enterprise agreement can provide for average weekly hours that are greater than the hours stipulated above if those additional hours are considered reasonable.

(B) Requests for Flexible Working Arrangements

An employee with at least 12 months' service who is a parent, or has responsibility for the care of a child, may request a change in their working arrangements (e.g. changes in hours, patterns or location of work) if the child is: (1) under school age (i.e. the age at which the child is required by the applicable State or Territory law to start attending school); or (2) under 18 and has a disability. The request must be made in writing and set out details including reasons for the change. Employers must give employees a written response to the request within 21 days, stating whether they grant or refuse the request. Employers may refuse the request only on reasonable business grounds. If the employer refuses the request, the written response must include the reasons for the refusal.

(C) IFA under the Modern Awards/Enterprise Agreements

The FW Act requires every modern award and enterprise agreement to have a flexibility term that allows for IFA. IFA is an agreement between an individual employee and the employer which varies the terms of the modern award or enterprise agreement. The terms to be varied include such wide ranging matters as when work is performed, overtime pay rates, and allowances. Each IFA must be in writing and signed by both parties. In making the IFA, the employer must ensure the arrangement leaves the employee better off overall than they would otherwise have been.

Daily Rest Break

- The FW Act does not set a standard for daily rest breaks. The number and nature of these breaks, subject to the length of time the employee is required to work, are provided for in modern awards.

Weekly Rest Day

- The FW Act does not set a standard for weekly rest day, which is left to regulation by modern awards.

Night Work

- The FW Act does not set a standard or premium rate for night work, which is provided for by modern awards.

Shift Work

- The FW Act does not set a premium rate for shift work, which is provided for by modern awards. In industries or occupations where shift work is conducted, it is also common to find award provisions that impose various restrictions or requirements as to how long shifts can last, how much notice workers must be given of changes to their rostering, and so on.

Annex

Certain Items relating to Working Hours in Selected Modern Awards in Australia

	Banking, Finance and Insurance Awards 2010	**Hospitality Industry (General) Award 2010**	**General Retail Industry Award 2010**
Ordinary hours of work	An average of 38 hours per week to be worked in one of the following ways: • 38 hours in 1 week; • 76 hours in 2 weeks; • 114 in 3 weeks; or • 152 in 4 weeks.	An average of 38 hours per week to be worked in one of the following ways: • a 19-day month of 8 hours/day; • 4 days of 8 hours + 1 day of 6 hours; • 4 days of 9.5 hours; • 5 days of 7 hours 36 minutes; • 152 hours in 4 weeks + 8 days off in each 4 weeks (at least a rostered day off (**RDO**) within 10 days); • 160 hours in 4 weeks with 8 days off + 1 RDO in the below methods: ➢ RDO be contiguous with normal days off, if practicable; ➢ RDO accrued to a maximum of 5 days; ➢ May take a RDO in part days; or ➢ Be taken the next day if a RDO falls on a public holiday; or • any combinations of the above.	An average of 38 hours per week to be worked in one of the following ways: • 38 hours in 1 week; • 76 hours in 2 consecutive weeks; • 114 hours in 3 consecutive weeks; • 152 hours in 4 consecutive weeks; • shorter days (i.e. 7.6 hours); • shorter day(s) per working week; • shorter fortnight: 4 hours off + RDO; • ≤ 4 hours on 1 day each 2 weeks, ≤ 6 hours on 1 day each week or ≤ 7.6 hours on any day (subject to mutual consent); • fixed day off in 4 weeks; • rotating day off in 4 weeks; or • an accumulating day off in a 4-week cycle with maximum 5 days in 5 cycles.

	Banking, Finance and Insurance Awards 2010	**Hospitality Industry (General) Award 2010**	**General Retail Industry Award 2010**
Limit of Ordinary Hours	• Nil	• Minimum 6 hours and maximum 11.5 hours of work a day (excluding meal break); • If work > 10 hours/day in 3 consecutive days → a break of at least 48 hours immediately follows; and • No more than 8 days of more than 10 hours in 4 weeks.	• No more than 6 consecutive days of work (including reasonable additional hours); • Maximum 9 hours/day + 11 hours in 1 day/week; • Maximum of 19 days' work in 4 weeks, if retailer has ≥ 15 employees per week (unless altered by mutual consent)
Rates for Overtime Pay	• Outside ordinary hours, paid at: ➢ 1.5 times for ≤ 3 hours; and ➢ 2 times for > 3 hours/ Saturday/ Sunday. • 20 minutes paid break within 5 hours since last break	• Monday to Friday paid at: ➢ 1.5 times for ≤ 2 hours; and ➢ 2 times for > 2 hours. • Friday midnight to Sunday/any days on RDO (a minimum of 4 hours pay): ➢ paid at 2 times.	• Counted on daily basis. • Outside ordinary hours, paid at: ➢ 1.5 times for ≤ 3 hours; ➢ 2 times for > 3 hours/ Sunday; and ➢ 2.5 times on public holiday.

Appendix 2.8

Working Hours Regulation in the European Union

Legislation and Objective

- The main piece of legislation currently governing working hours in the European Union (the EU)[262] is the Working Time Directive (Directive 2003/88/EC) (WTD) adopted in 2003[263]. It was enacted with an aim to provide minimum safety and health requirements for the organisation of working time.

Main Provisions of the Working Time Directive

- Under the WTD, each Member State must ensure that every worker is entitled to:

  (1) a limit to weekly working time, which must not exceed 48 hours on average, including any overtime (adoption of reference period is allowed);

  (2) a minimum daily rest period of 11 consecutive hours in every 24 hours[264];

  (3) a rest break (duration not specified) if the working day is longer than 6 hours[265];

[262] The EU is an economic and political partnership among 27 European countries. It was first established on 1 November 1993 with only 12 Member States but this number has grown to the present 27 through a series of enlargements. Current EU Member States include Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom.

[263] The first Directive on working time in the EU is the Council Directive 93/104/EC adopted in 1993, which was later amended in 2000 by Directive 2000/34/EC and the two have been consolidated into Directive 2003/88/EC.

[264] The WTD is silent on whether daily rest period is paid or not.

[265] The duration and terms on which a rest break is granted are decided through collective agreements or agreements between the two sides of industry, or failing that, by national legislation. The WTD is silent on whether rest break is paid or not.

(4) a minimum weekly rest period of 24 uninterrupted hours for each seven-day period, which is added to the 11 hours' daily rest[266]; and

(5) extra protection in night work (e.g. average working hours should not exceed 8 hours per 24-hour period; night workers should not perform heavy or dangerous work for longer than 8 hours in any 24-hour period)[267].

Coverage and Exemptions

- In general, the WTD is applicable to all sectors of activity, both private and public[268]. However, self-employed persons are not covered by the WTD.

- Member States may provide derogation for those workers whose duration of working time is not measured and/or predetermined and those workers who can determine their own working time. These so-called "autonomous workers" include the following:

  (1) managing executives or other persons with autonomous decision-taking powers;

  (2) family workers (workers in family-run businesses who are family members); or

  (3) workers officiating at religious ceremonies in churches and religious communities.

  For these workers, derogations are possible regarding the 48-hour weekly limit, weekly rest period, daily rest, rest break, length of night work and reference period.

---

[266] A minimum weekly rest period of 24 hours (without adding to the 11-hour daily rest) may be applied if objective, technical or work organisation conditions so justify. A Member State may use a reference period not exceeding 14 days for application of the weekly rest period requirement. In other words, every worker is entitled to two uninterrupted 24-hour rest in every two weeks. The WTD is silent on whether weekly rest is paid or not.

[267] Night time is any period of not less than seven hours, as defined by national law, and which must include, in any case, the period between midnight and 5:00 a.m. Night workers are entitled to a free health assessment before their assignment and thereafter at regular intervals. Those suffering from health problems recognised as being connected with night work should be transferred whenever possible to day work to which they are suited.

[268] For the public sector, the WTD is not applicable "where characteristics peculiar to certain specific public service activities, such as the armed forces or the police, or to certain specific activities in the civil protection services, inevitably conflict with it".

- The WTD does not apply where another European Community directive or regulation fixes more specific requirements for organising working time in specific occupations and activities. These include seafarers, mobile aviation workers, long-distance road transport workers and cross-border rail workers.

- For specified occupations and nature of work, derogations from certain provisions may be adopted[269] provided that the employees concerned are afforded equivalent periods of compensatory rest or appropriate protection in exceptional cases. They are:

  (1) activities such as: (a) those with a need for continuity of service/production (e.g. hospitals, residential care and public utilities); (b) those with a foreseeable surge of seasonal activity (e.g. tourism, postal services, etc.); and (c) long distance commuting by workers dealing with emergencies/accidents and most rail transport workers [270]; and

  (2) shift workers[271].

---

269 The provisions include those concerning daily rest, rest break, weekly rest period, length of night work and reference period. Such derogations may be adopted through laws and regulations, administrative provisions, or collective agreements or agreements between the two sides of industry concerned. Any "collective agreements" which appear thereafter in **Appendix 2.8** refer to "collective agreements or agreements between the two sides of industry".

270 The full list of activities is: (1) where the worker's place of work and his place of residence are distant from one another, including offshore work, or where the worker's different places of work are distant from one another; (2) security and surveillance activities requiring a permanent presence in order to protect property and persons, particularly security guards and caretakers or security firms; (3) activities involving the need for continuity of service or production, particularly: (a) services relating to the reception, treatment and/or care provided by hospitals or similar establishments, including the activities of doctors in training, residential institutions and prisons; (b) dock or airport workers; (c) press, radio, television, cinematographic production, postal and telecommunications services, ambulance, fire and civil protection services; (d) gas, water and electricity production, transmission and distribution, household refuse collection and incineration plants; (e) industries in which work cannot be interrupted on technical grounds; (f) research and development activities; (g) agriculture; (h) workers concerned with the carriage of passengers on regular urban transport services; (4) where there is a foreseeable surge of activity, particularly in: (a) agriculture; (b) tourism; (c) postal services; (5) in the case of persons working in railway transport: (a) whose activities are intermittent; (b) who spend their working time on board trains; or (c) whose activities are linked to transport timetables and to ensuring the continuity and regularity of traffic; (6) occurrences due to unusual and unforeseeable circumstances, beyond the employers' control, or to exceptional events, the consequences of which could not have been avoided despite the exercise of all due care; and (7) in cases of accident or imminent risk of accident.

271 Derogations from daily rest and weekly rest period provisions are allowed for shift work activities: (a) when the worker changes shift and cannot take daily and/or weekly rest periods between the end of one shift and the start of the next one; and (b) involving periods of work split up over the day, particularly those of cleaning staff.

- Certain provisions of the WTD[272] do not apply to mobile workers[273] and workers on board seagoing fishing vessel.

Major Definitions

- The terms relevant to working hours provisions as defined under the WTD are set out below:

"Working time"	-	Any period during which the worker is working, at the employer's disposal and carrying out his activity or duties, in accordance with national laws and/or practice
"Rest period"	-	Any period which is not working time

Overtime Work and Overtime Pay

- The WTD does not govern pay rates for regular, overtime or "on-call work", which remain entirely a matter for national law or collective bargaining.

Systems to Allow Flexibility

- When calculating the 48-hour weekly limit, weekly working time can be averaged over up to:
  - 4 months (default provision)[274];
  - 6 months (by law, in certain activities including (a) those with a need for continuity of service/production (e.g. hospitals, residential care and public utilities); (b) those with a foreseeable surge of seasonal activity (e.g. tourism, postal services, etc.); (c) long distance commuting by workers dealing with emergencies/accidents and most rail transport

[272] Provisions on daily rest (11 consecutive hours of rest for every 24-hour period), rest break for work in every 6 hours, and length of night work do not apply to both mobile workers and workers on board seagoing fishing vessels. In addition, provision on weekly rest period does not apply to mobile workers and provision on maximum weekly working time does not apply to workers on board seagoing fishing vessels. The WTD also requires Member States to provide adequate rest for these workers, with details on the limit of hours of work and rest for workers on board seagoing fishing vessels.

[273] Mobile worker is any worker employed as a member of travelling or flying personnel by an undertaking which operates transport services for passengers or goods by road, air or inland waterway.

[274] The period of paid annual leave and sick leave should not be included in calculation of working hours during the reference period.

workers[275]); or

- 12 months (only by collective agreements).

Opt-out

- The WTD includes an opt-out clause which gives Member States the option not to apply the 48-hour weekly limit to certain workers subject to the following conditions:

  (1) the workers affected must first give free and informed consent;

  (2) no worker may be subject to any detriment if he does not agree to opt-out;

  (3) the employer must keep up-to-date records of all workers who opt-out;

  (4) the records must be available to the competent authorities, which can ban or restrict hours worked in excess of the 48-hour limit if necessary for safety and health reasons; and

  (5) Member States must inform the European Commission if they apply opt-out.

[275] The full list of activities has been set out in footnote no. 270.

Appendix 2.9

Working Hours Regulation in the United Kingdom

Legislation

- The main piece of legislation governing working hours in the United Kingdom (the UK) is the Working Time Regulations (WTR) enacted in 1998, which originates from the EU's Working Time Directive[276].

Coverage and Exemptions

- The WTR apply to all workers, whether part-time or full-time, in Great Britain (i.e. England, Scotland and Wales), save for those to whom particular exclusions and exemptions apply.

- For workers in certain sectors[277], the WTR do not apply but there is separate legislation which provides them with parallel protections.

- Those who are exempted from certain or all of the provisions of the WTR include:

  (1) domestic servants in private households[278];

  (2) work in which working time is not measured, predetermined or can be determined by the workers (so-called "autonomous workers")[279];

  (3) seafarers, sea-fishermen and workers on inland waterways[280];

  (4) civil aviation workers[281];

---

[276] Please refer to **Appendix 2.8** for details of the Working Time Directive.

[277] Examples of workers in these sectors are seafarers, sea-fishermen, workers on inland waterways and civil aviation services. The WTR provisions on young workers are still applicable to civil aviation services.

[278] Domestic servants are still entitled to annual leave, daily rest, weekly rest and rest breaks.

[279] These workers are still entitled to annual leave, health assessments for night workers, adequate rest when doing high-risk work, and all of the special limits and entitlements for young workers. Examples of autonomous workers are: (1) managing executives or other persons with autonomous decision-taking powers; (2) family workers; and (3) workers officiating at religious ceremonies in churches and religious communities.

[280] These workers are regulated by their own sets of legislation on working time.

[281] Civil aviation workers are protected by a separate legislation and are excluded from provisions of the WTR except those in relation to young workers.

(5) civil protection services[282]; and

(6) road transport workers[283].

- For specified occupations and nature of work, derogations from certain provisions[284] may be adopted provided that the employees concerned are afforded equivalent periods of compensatory rest or appropriate protection in exceptional cases. They are:

  (1) activities such as: (a) those with a need for continuity of service/production (e.g. hospitals, residential care and public utilities); (b) those with a foreseeable surge of seasonal activity (e.g. tourism, postal services, etc.); and (c) workers dealing with emergencies/accidents and for most rail transport workers[285]; and

  (2) shift workers[286].

---

[282] Civil protection service includes police, fire brigades, ambulance services, security and intelligence services, customs and immigration officers, prison service, coastguards, lifeboat crew and other voluntary rescue services. Not all workers in these various services are exempted from the various relevant WTR limits and entitlements. The wording of the exemption refers to "characteristics peculiar" to armed forces and police, and "certain specific activities in the civil protection services, inevitably conflict with the provisions of these Regulations (i.e. the WTR)". It would be necessary for employers to show that these unusual criteria were met in particular circumstances in relation to these categories of workers. For example, in a catastrophe of exceptional scale and gravity, the activities of emergency workers tending the sick and injured will meet the above criteria. On the contrary, the working hours of such workers in their routine activities are not exempted as they are capable of being organised by their employer in advance. See McLynn (2009), p. 22.

[283] Road transport workers are still entitled to annual leave, health assessments for night workers, the right for a night worker to be transferred to day work when his health is affected, and the protection for young workers.

[284] The provisions include those concerning daily rest, rest break, weekly rest period and night work.

[285] The full list of activities is: (1) where the worker's place of work and place of residence are distant from one another, including offshore work, or where the worker's different places of work are distant from one another, including cases where the worker is employed in offshore work; (2) security and surveillance activities requiring a permanent presence in order to protect property and persons, as may be the case of security guards and caretakers or security firms; (3) activities involving the need for continuity of service or production, as may be the case of: (a) services relating to the reception, treatment and/or care provided by hospitals or similar establishments including the activities of doctors in training, residential institutions and prisons; (b) work at docks or airports; (c) press, radio, television, cinematographic production, postal and telecommunications services and civil protection services; (d) gas, water and electricity production, transmission and distribution, household refuse collection and incineration; (e) industries in which work cannot be interrupted on technical grounds; (f) research and development activities; (g) agriculture; (h) the carriage of passengers on regular urban transport services; (4) where there is a foreseeable surge of activity, as may be the case in relation to: (a) agriculture; (b) tourism; (c) postal services; (5) where the worker's activities are affected by: (a) an occurrence due to unusual and unforeseeable circumstances, beyond the control of the worker's employer; (b) exceptional events, the consequences of which could not have been avoided despite the exercise of all due care by the employer; (c) an accident or the imminent risk of accident; and (6) where the worker works in railway transport and (a) his activities are intermittent; (b) he spends his working time on board trains; or (c) his activities are linked to transport timetables and to ensuring the continuity and regularity of traffic.

[286] Subject to certain conditions, provisions on daily rest and weekly rest period do not apply to shift workers.

- There are special rules relating to maximum working week for offshore workers[287]. Young workers[288] are also subject to special rules on certain provisions[289].

Major Definitions

- Working time is defined under the WTR as:
  - any period during which a worker is working, at his employer's disposal and carrying out his activity or duties;
  - any period during which he is receiving relevant training; and
  - any period which is to be treated as working time under a relevant agreement.

  Lunch breaks and routine travel between home and work, among other situations, are not counted as working time[290].

Working Hours Limits

- Workers are protected under the WTR to have a maximum working week (including overtime) of 48 hours averaged over 17 weeks[291].

Opt-out

- The WTR provide that an individual may agree to work more than the

[287] Offshore workers are subject to the 48-hour average maximum working week, but a reference period of 52 weeks applies (in contrast with 17-week under the WTR which will be explained in a later section).

[288] A young worker is someone who is under 18 but over school leaving age (one is under school leaving age until the end of summer term of the school year in which he turns 16).

[289] Young workers are allowed to work a maximum of 40 hours a week and 8 hours a day. Special rules also apply to them for rest break, daily rest, weekly rest period, night work and reference period, etc.

[290] According to the government's website, working time is counted for: (1) job-related training; (2) job-related travelling time (e.g. for sales representatives); (3) working lunches; (4) time spent actually working abroad in some cases; (5) paid and some unpaid overtime; and (6) time spent on-call at the workplace. Working time is not counted for: (1) breaks when no work is done (e.g. lunch breaks); (2) normal travel to and from work; (3) time when the worker is on-call away from the workplace; (4) evening and day-release classes not related to work; (5) travelling outside normal working hours; (6) unpaid overtime which the worker has volunteered for (e.g. staying late to finish something off); and (7) paid or unpaid holiday.

[291] According to the guidelines provided by the government, if a worker works with more than one employer, the amount of combined hours worked should not exceed the 48-hour average weekly limit.

48-hour weekly maximum limit (i.e. exercising opt-out)[292]. Opt-out only applies to weekly working limit of 48 hours but not other clauses in the WTR, e.g. minimum daily rest period of 11 consecutive hours in every 24 hours and uninterrupted rest period of not less than 24 hours in each 7-day period.

- The opt-out agreement must be entered into before the work is done by the worker. The worker cannot be forced to sign the agreement and should not be dismissed or subject to any detriment because he refuses to sign an opt-out.

- The opt-out agreement:
  - must be in writing;
  - may relate either to a specified period or apply indefinitely; and
  - shall be terminable by the worker with seven days' notice to the employer (unless the agreement itself provides for a longer notice period of termination not exceeding three months).

- According to the information posted on the government's website, if an employee works two jobs, and the total time worked is over 48 hours, he may either (1) consider signing an opt-out agreement with his employers; or (2) reduce his working hours to meet the 48-hour limit. An employer has to keep records of his employee who has signed an opt-out (an up-to-date list of employees would suffice and not of the hours they have actually worked).

Overtime Work and Overtime Pay

- There is no provision in the WTR governing arrangements of overtime work or overtime premium (apart from the maximum 48-hour working week which also includes overtime)[293].

---

[292] There is no opt-out for young workers. Despite signing an opt-out agreement, a worker should still only work an average maximum of 78 hours per week since the WTR provide for a minimum of 90 hours per week rest. Implied maximum weekly working hours: 24 hours x 7 days – (11 hours [daily rest] x 6 days + 24 hours [weekly rest]) = 78 hours. Details on daily rest and weekly rest arrangements will be given in later sections.

[293] According to the government's website, employers are advised to have their employees' agreement to work overtime unless there are already special provisions in their contracts. Employers are also advised to state clearly in the employee's contract the rate of overtime pay, when overtime becomes payable and notice arrangement, etc.

Systems to Allow Flexibility

- The maximum weekly working limits of 48 hours can be averaged over a reference period. The reference period can be:
  - a fixed period or a rolling period of any previous 17 weeks (the latter, in the case of no written agreement); or
  - up to 52 weeks under a collective or workforce agreement (where there are objective or technical reasons or reasons concerning the organisation of work for doing so).

Daily Rest Break

- A worker is entitled to:
  (1) a minimum rest break of 20 minutes when daily working time exceeds 6 hours[294]; and
  (2) a minimum daily rest period of 11 consecutive hours in every 24 hours[295].

Weekly Rest Day

- A worker is entitled to an uninterrupted rest period of not less than:
  - 24 hours in each 7-day period; or
  - 48 hours in each 14-day period.

Night Work

- A night worker is any worker who either:
  - works for three or more hours during night time in the normal course of his work; or
  - is likely to work at least the proportion of his annual working time during night time that is specified in a relevant agreement.

---

294 The WTR are silent on whether the rest break is paid or not. The break must be in one block and cannot be taken at the end of the working day. Employees are allowed to be away from the workplace during the rest breaks.

295 The WTR are silent on whether the daily rest period is paid or not.

- Night time is ordinarily the period between 11:00 p.m. and 6:00 a.m. A "relevant agreement" may specify a different period as night time, provided that this period:
  - includes the hours between midnight and 5:00 a.m.;
  - does not begin earlier than 10:00 p.m. or end later than 7:00 a.m.; and
  - lasts for 7 hours.

- A night worker should not work more than an average of 8 hours per 24-hour period and cannot be made to work longer than 8 hours in any 24-hour period for work involving special hazards or heavy physical or mental strain. This is an absolute limit rather than an average limit and includes daytime overtime.

- Employers are required to ensure that every night worker has the opportunity to have a health assessment free of charge before the worker commences night work, and at regular intervals whilst he is undertaking night work[296].

Shift Work

- Shift work means any method of organising work in shifts whereby workers succeed each other at the same workstations according to a certain pattern, including a rotating pattern, and which may be continuous or discontinuous, entailing the need for workers to work at different times over a given period of days or weeks.

- Derogations from the WTR may be made with regard to shift work by agreement. However, in most cases, compensatory rest must be provided.

[296] According to the government's guidelines, once a year would be appropriate in many cases, though employers may offer an assessment more frequently if they felt it necessary. The regularity of these assessments needs to be determined based on individual circumstances.

Appendix 2.10

Working Hours Regulation in Belgium

Legislation and Objective

- There are two major pieces of legislation governing working hours in Belgium, namely, the Labour Act of 16 March 1971 (the Labour Act) and the Act of 17 March 1987 relating to the Introduction of New Work Systems in the Enterprises (New Work Systems Act).

- The Labour Act sets out, among others, rules on working time, Sunday rest and night work, etc. Its objective is to strike a balance between respecting the rights of workers and enhancing the competitiveness of undertakings by organising work more efficiently and to promote employment.

- The New Work Systems Act allows enterprises to introduce, under certain conditions, new work systems which enable extension or adaptation of operating times of the enterprise with a view to promoting employment[297]. Introduction of a new work system can only be implemented by a two-phase procedure: prior information to workers or their representatives (preparatory phase) and negotiation concerning all conditions and implications connected with the new work systems (decision phase).

Coverage and Exemptions

Labour Act

- The Labour Act is applicable to all employees bound by an employment contract and to all other persons who work under the authority of another person other than by virtue of an employment contract.

[297] The employers are allowed to depart from the principles of: (1) limitation of working duration; (2) prohibition of work on Sundays; (3) prohibition of work on public holidays; and (4) prohibition of night work. These exemptions can only be obtained after a particular procedure of negotiation, first at the level of the sector of activity (Committees or Joint Sub-Committees) and then at the enterprise level.

- The Labour Act is not applicable to the following persons[298]:

  (1) persons employed by the state, the provinces, the municipalities, the public institutions which depend upon them and the public bodies, unless they are employed by institutions carrying out an industrial or commercial activity or by institutions providing health care, disease prevention or hygiene services;

  (2) persons employed in a family enterprise where usually only parents, in-laws or wards[299] are employed under the exclusive authority of the father, the mother or the guardian;

  (3) the crews of fishing enterprises and crews employed in air transport work[300];

  (4) persons employed in a management or confidential position;

  (5) domestic workers;

  (6) trade representatives;

  (7) home workers; and

  (8) doctors, veterinarians, dentists, specialist doctors under training and student interns who are preparing themselves to practise their professions.

New Work Systems Act

- Introduction of a new work system can be considered by employers within the scope of the Collective Agreements Act (i.e. the private sector) with some exceptions. However, certain sectors are not allowed to depart from prohibition of work on Sunday[301]. New work systems are not applicable to the public sector, except only for the public enterprises which are subjected to the provisions of the Collective Agreements Act (e.g. public credit institutions).

---

298 These exemptions are applicable to the provisions on working time, rest breaks and night work but those on rest on Sundays and public holidays are slightly different.

299 A ward is a person who is legally put under the protection of a court of law or a guardian.

300 This relates to the crews targeted in respect of the management of working hours by the European directives transposed through sectoral collective agreements: (1) coastal fishing: directive No. 2034 dated 23.11.1993; and (2) civil aviation: directive No. 2079 dated 27.11.2000.

301 These sectors include: Joint Committee No. 119 of food business (however, the employers carrying out wholesale business activities will be able to apply a new work system); Joint Committee No. 201 of independent retail business; Joint Committee No. 202 of employees in retail food business; Joint Committee No. 311 of big enterprises for retail sale; and Joint Committee No. 312 of big stores.

- As for workers, new work systems may apply to those who are:

  (1) subject to the provisions of the Labour Act;

  (2) engaged in a contract for an undetermined period; or

  (3) volunteers for implementing such work systems except if the new systems affect all personnel of the enterprise or one of its divisions.

Major Definitions

- Under the Labour Act, working time is the time during which a worker is available to the employer (in other words the time during which he is under his authority) and which he cannot use freely as he sees fit[302].

Working Hours Limits

Labour Act

- Daily working time may not exceed 8 hours but may be increased to:
  - 9 hours - if the worker does not work more than 5½ days a week; or
  - 10 hours - if the worker is absent from home for more than 14 hours a day because of the distance between the workplace and their place of residence or stay.

- Weekly working time has been generally reduced from 40 hours to 38 hours with effect from 1 January 2003[303]. The reduction of hours may take the form of:

  (1) 38 actual hours per week; or

[302] According to the government's website, working hours includes: (1) the time during which the employee is receiving training or instruction with regard to work which he will have to carry out; (2) the time during which the salesperson waits for customers in a shop; (3) the time spent travelling between two places on behalf of the same employer; and (4) "on-call" period during "on-call" duty. Working hours does not include: (1) the time spent travelling from home to the place of work and vice versa; and (2) the rest periods and meal breaks which are stated in the employment contract. Some hours are also counted as working hours under certain legal provisions even if no work is done during the period. Examples are: (1) for young workers subject to part-time compulsory schooling, the time devoted to the pursuance of reduced hours schooling or training in response to the exigencies of the compulsory schooling; (2) for workers in pits, mines and quarries, the time necessary for descending to and ascending from the place of work or for coming back up from it or going back down into it; and (3) the hours of absence of a worker in order to pursue paid study leave.

[303] The Labour Act still refers to a maximum weekly working hours of 40. The amendment to a maximum limit of 38 hours was made under the Act of 10 August 2001.

(2) 38 hours per week on average over a specified reference period. For example, if a worker working under an 8-hour day and a 40-hour week is granted one compensatory rest day (i.e. 8-hour) in every 4 weeks, he is working a 38-hour week on average (i.e. 2 hours of compensatory rest per week would reduce working hours per week from 40 hours to 38 hours)[304].

- The reduction in working hours cannot entail a decrease in total remuneration.

- The working hours as given in the collective agreements in different companies/industries may be reduced lower than the above daily or weekly limit.

New Work Systems Act

- The daily working period cannot exceed 12 hours. The weekly working limit of a particular week is implied at 84 hours (12 hours x 7 days)[305]. However, the weekly working period (40 hours or a period less than that fixed by common agreement) must be observed on average over the reference period (a quarter of a year or a longer period [maximum one year]) fixed in the agreement introducing the new work systems (collective agreement or working rules).

Overtime Work and Overtime Pay

Labour Act

- If overtime work has been performed, both overtime pay and compensatory rest must be given, except in cases in which derogations are permitted.

[304] For enterprises which had not applied the 38-hour work week by 1 January 2003, they were obliged to comply with the 38-hour work week and not allowed to have the work arrangement of 40-hour work week with compensatory rest days granted.

[305] However, the daily and weekly limits for special situations given under the Labour Act still apply, e.g. workers on continuous work for technical reason can only work 12 hours per day and 50 hours per week or 56 hours if the hours are spread over 7 days per week by way of 8 hours per day.

Overtime Pay

- Work done in excess of 9 hours per day or 40 hours per week[306] (or lower limits determined by a collective agreement involving an "effective" reduction of daily or weekly length of working time) should be given overtime pay[307]. Overtime entitlement is calculated strictly on a daily/weekly basis and it is not allowed to average overtime hours over a reference period.

- The overtime pay rate is:
  - 1.5 times the ordinary remuneration[308] for hours worked during the week, including on Saturday; and
  - 2 times the ordinary remuneration for hours worked on Sunday or a public holiday.

- Derogations from giving overtime pay are allowed for specified jobs or situations[309].

Compensatory Rest

- When normal limits on working time are exceeded, compensatory rest periods must be granted to ensure that the normal weekly working time (38 hours or that determined by collective agreement) is complied with over a reference period[310].

[306] Overtime pay is given for work in excess of 40 hours per week (not 38 hours) so that employers may arrange employees to work 38 hours "on average" (not actual) per week over a specified reference period, and give compensatory leave without giving overtime pay. For example, a worker may work for 40 hours a week and be given 13 compensatory rest days over a year of reference period.

[307] If the number of daily overtime hours during the week is different from that of the weekly overtime hours, overtime pay should be calculated based on the larger amount.

[308] The ordinary remuneration should be calculated on the basis of the average hourly wage that should be paid for the day or week when the worker did overtime.

[309] They include: (1) preparatory or follow-up work; (2) transport operations, loading and unloading; (3) work for which execution time cannot be determined; (4) working with substances which may degenerate very quickly; (5) exceptional increase of work; (6) work justified by unforeseen circumstances; (7) work carried out to deal with an accident which has occurred or is imminent or urgent repair to machinery or equipment; and (8) work on stock-taking and balance-sheets.

[310] Compensatory rest may be paid or unpaid depending on the specific situations.

- The reference period in principle is a quarter of a year. However, it may be increased to one year by royal decree, a collective agreement, or in the absence of a royal decree or collective agreement applicable to the undertaking, by the undertaking's terms and conditions of employment.

- Derogations from giving compensatory rest are allowed for specified jobs or situations[311].

Arrangements for Work on Public Holidays

- Workers[312] may be employed on a public holiday or a substitute day in the cases of derogations permitted. The wages/salary for a public holiday or a substitute day is equal to the remuneration which the worker would have normally earned if he had worked on that day (i.e. comprising both the basic wages/salary and other bonuses and benefits which the worker would have received if he had worked on that day)[313].

- Apart from additional wages/salary, the worker is also entitled to paid compensatory rest which must coincide with a normal day of activity[314] within six weeks following the public holiday or substitute day[315]. The compensatory rest is given in accordance with the following scale:

  (1) a full day if his work lasted for more than 4 hours; and

---

311 They include: (1) working in successive shifts; (2) continuous work for technical reasons; (3) work to which the normal working time limits cannot be applied; (4) preparatory and follow-up work; (5) transport operations, loading and unloading; (6) work for which execution time cannot be determined; (7) working with substances that degrade quickly; (8) exceptional increase in work; (9) work necessary because of unforeseen circumstances; and (10) work to deal with an accident which has occurred or is imminent or urgent repairs to machinery or equipment by workers of a third party.

312 The following persons are not covered under the provision on public holidays: (1) persons employed by the state, the provinces, the municipalities, the public institutions which depend upon them and the public bodies, unless they are employed by institutions carrying out an industrial or commercial activity or by institutions providing health care, disease prevention or hygiene services; and (2) persons engaged abroad, who, during their period of engagement, benefit from advantages at least equivalent to those to which they could have claimed by virtue of the Labour Act. The provisions relating to substitute holidays coinciding with a Sunday or a usual day of inactivity and the provisions relating to the remuneration for holidays do not apply to workers engaged in local agency for employment.

313 Sectoral collective agreements in particular sectors may specify that work performed on a public holiday or a substitute day is entitled to additional wage/salary supplement (bonus).

314 In other words, the period of compensatory rest may not coincide with an ordinary day of inactivity, or a day of rest granted after the normal working time limits have been exceeded.

315 A royal decree may lay down a different scheme for compensatory rest for particular industrial sectors or particular categories of workers.

(2) half a day if his work did not last for more than 4 hours.

New Work Systems Act

- The worker cannot work for more than 65 (overtime) hours beyond the (normal) working hours at any time during a reference period[316].

- Overtime work is permitted only if it has been set out in the working rules. Employers are not allowed to engage their workers beyond the working hours given in the working rules.

- Introduction of a new work system in the enterprise also allows exemption from the principles of prohibition to work on public holidays. These exemptions must be expressly provided in the agreement introducing a new work system[317].

Systems to Allow Flexibility[318]

In General

- Working hours may be averaged over a quarter of a year (or one year by royal decree, collective agreement or modification of the workplace regulations for enterprises not covered by royal decree or collective agreement).

For Specific Jobs or Situations

- For specific jobs or situations, derogations from the daily and weekly working hours are allowed under the Labour Act or by royal decree. Some may be extended to a daily limit of 11 hours and weekly limit of 50 hours; others may be extended to a daily limit of 12 hours and weekly limit of 50 or 56 hours. Details are given in **Table A2.9**:

---

316 For example, for a worker who normally works a 40-hour week, at the end of the 10th week, the total working hours during the period should not have exceeded 465 hours (i.e. 40 hours x 10 + 65 hours).

317 Examples of these exemptions are: (1) the employer may hire workers who solely work on public holidays and/or weekends; (2) the employer may assign compensatory rest for work on a public holiday on a normal day of inactivity (same arrangement as for work on a Sunday); and (3) the employer may waive the requirement to assign a substitute day for public holiday falling on Sunday or a usual day of inactivity.

318 The flexibility measures mentioned in this section are mainly covered by the Labour Act unless otherwise specified.

Table A2.9: Derogations from Working Hours Limits

Means of Derogations and Relevant Jobs/Situations	Maximum Working Hours Limits
Directly permitted by the Labour Act ● Work organised in successive shifts ● Stock-taking and audit work (can only be used for 7 days per calendar year per worker)	Daily: 11 hours Weekly: 50 hours
Permission is required by royal decree after seeking advice of relevant joint committee[319] ● Industrial sectors or categories/sectors of undertakings where normal limits on working time cannot be complied with (e.g. various manufacturing industries) ● Preparatory or follow-up work which must be carried out outside normal production time	
Prior permission by royal decree ● Transport operations, loading and unloading work ● Work for which execution time cannot be clearly defined because of its nature ● For sectors where the substances processed will degenerate quickly	
Prior agreement of trade union representatives or informed subsequently if not possible (with notification to the government authority) ● Work necessary because of unforeseen circumstances	
Prior agreement by the trade union representatives and the government authority ● In case of exceptional increase of work	

[319] Joint committees are permanent bodies at sectoral or subsectoral level in which representative employers' associations and trade unions are represented.

Means of Derogations and Relevant Jobs/Situations	Maximum Working Hours Limits
Directly permitted by the Labour Act ● Continuous work for technical reasons	Daily: 12 hours Weekly: 50 hours or 56 hours if the work is spread over 7 days/week at the rate of 8 hours/day
Directly permitted by the Labour Act - in case of force majeure ● Carry out work for third parties to deal with the threat of an accident that has occurred ● Carry out urgent work on machinery or equipment for third parties ● Carry out work within the undertaking to deal with the threat of an accident or an accident that has occurred ● Carry out urgent work within the undertaking on machinery or equipment	No specified limit

- For the construction sector, derogations may be applied during the summer period or a period of intense activity. The daily limit is 9 hours and weekly limit is 45 hours, and up to a total of 180 hours per calendar year during the summer period or in a period of intense activity. Under the New Work Systems Act, it is allowed to waive the general prohibitions for workers from the construction sector from working on Saturdays and Sundays and from 6:00 p.m. to 7:00 a.m.

Flexible Work Schedule

- The flexible schedules allow employers to adjust the work schedules according to the activity and needs of the enterprises (without having to pay overtime each time), but the fluctuation cannot exceed 2 hours more or less than the normal daily schedule and 5 hours more or less than the normal

weekly schedule[320]. The limit is 9 hours per day and 45 hours per week, provided that the average weekly working hours of 38 are complied with over a reference period of not more than 1 year.

Daily Rest Break[321]

- A worker is entitled to:
  - a 15-minute break as soon as the length of work reaches 6 hours[322]; and
  - an interruption of work of at least 11 consecutive hours in every 24 hours (i.e. between two daily work sessions).

- The obligation to grant rest break may not be observed in case of work undertaken to deal with an accident which has occurred or which is imminent. An interruption of less than 11 hours is also permitted under specified situations[323].

Weekly Rest Day

Labour Act

- The workers who are exempted from Sunday rest are slightly different from

[320] The flexible schedules can be introduced by collective agreement (followed by a modification of the workplace regulations) or a modification of the workplace regulations in enterprises without any collective agreement.

[321] The Labour Act is silent on whether daily rest break is paid or not.

[322] This limit is applicable for situations not regulated by collective agreements or royal decrees. Otherwise, the duration and the conditions for granting breaks are laid down by collective agreement concluded at either sectoral or enterprise level.

[323] These situations include: (1) in case of force majeure: accident and urgent work on machinery; (2) work characterised by divided periods (e.g. in restaurants); (3) work in successive shifts (or for continuous or semi-continuous work) at the time when the worker changes shifts; and (4) other cases to be determined by a sectoral collective agreement that has been declared generally binding by royal decree. For item (3), "continuous work" refers to the activities that cannot be interrupted for technical reasons and must be continued 24 hours a day and 7 days a week. "Semi-continuous work" refers to work with only one stoppage during the weekend.

those of other provisions[324].

- Employers are prohibited from employing workers to work on Sundays except when derogations are allowed or when the workers are exempted from Sunday rest. No compensation is paid for Sunday rest.

- The 11-hour daily consecutive rest period must, as appropriate, be aggregated either with the Sunday rest (24 hours) or with the compensatory rest period granted for work performed on Sunday so that the worker has a total of 35 consecutive hours of weekly rest[325].

- The Labour Act or specific royal decrees may allow particular sectors or activities to derogate from Sunday rest. Workers may work for some hours or entire day of some or all Sundays, e.g. those who are engaged in the hotel and catering sector, hospitals, energy distribution companies, transport operations and roadside vehicle repair, etc.

- A worker who works on Sunday is entitled to ordinary remuneration[326].

- The worker is also entitled to unpaid compensatory rest within the six days following the Sunday and it need not coincide with his normal working day[327]. The length of compensatory rest is granted in accordance with the following scale:

  (1) a full day if the work on Sunday lasted for more than 4 hours; and

  (2) half a day if the work on Sunday did not last for more than 4 hours (in

---

[324] The provisions on Sunday rest are not applicable to the following persons: (1) persons employed by the state, the provinces, the municipalities, the public institutions which depend upon them and the public bodies, unless they are employed by institutions carrying out an industrial or commercial activity or by institutions providing health care, disease prevention or hygiene services; (2) persons employed in a family enterprise where usually only parents, in-laws or wards are employed under the exclusive authority of the father, the mother or the guardian; (3) the crews of fishing enterprises and crews employed in air transport work; (4) navigating personnel engaged in water transportation works, except for the workers under ties of a contract of engagement for services of internal navigation buildings; (5) workers engaged in teaching establishments; (6) home workers; and (7) doctors, veterinarians, dentists, specialist doctors under training and student interns who are preparing themselves to practise their professions.

[325] Derogations from aggregating the 11-hour consecutive rest period with Sunday rest are allowed. The situations are the same as those in which derogations are allowed for daily rest break of less than 11 hours.

[326] Sectoral collective agreements in particular sectors may specify that work performed on a Sunday is entitled to additional wage/salary supplement (bonus).

[327] However, the compensatory rest may not coincide with a public holiday or with a day of compensatory rest granted as part of the rules governing public holidays, or with a day of compensatory rest granted for exceeding the normal working time limits.

this case, compensatory rest should be granted (a) before or after 1:00 p.m. on a day; and (b) the worker may not work for more than 5 hours on that day).

New Work Systems Act

- New work systems allow employers to engage workers on Sunday[328]. Compensatory rest periods still apply for work on Sundays (same entitlement as in the Labour Act) and they may be given within a period as specified by the collective agreement (which may be longer than the 6-day period set out in the Labour Act).

Night Work and Shift Work

Labour Act

- In principle, night work is prohibited. "Night work" means any work performed between 8:00 p.m. and 6:00 a.m. This rule applies without distinction between male and female workers.

- The derogations from the ban on night work relate to an industrial sector, particular activities or particular workers[329].

- A number of derogations are provided for by law concerning cases in which night work is regarded as normal or inherent in the activities pursued (e.g. transport sector, energy distribution companies, hospitals, hotel and catering sector, surveillance activities, particular cases of force majeure, etc.). Night work may also be permitted by royal decree in particular industrial sectors, undertakings or occupations or for the execution of particular types of work.

- An employer who can benefit from an exemption can start a procedure for introducing a "work system comprising night activities". It is a system in which the workers are usually engaged from 8:00 p.m. to 6:00 a.m. and who always render their services from midnight to 5:00 a.m. Before its

[328] Except those sectors which are not allowed to depart from prohibition of work on Sunday as mentioned in previous sections.

[329] Apart from the rules governing employment, there is also a set of measures in place in the framework of the welfare of workers at work in order to safeguard the safety and health of night workers.

introduction, the employer must proceed with consultations within the works council[330] and, in the absence of this, with the trade union delegation. In the absence of works council and trade union delegation, the workers should be consulted.

- In principle, workers who engage in night work are not entitled to a supplement to their wages/salary (bonus). Night work is paid in the same way as work carried out in the daytime. There are two exceptions to such principle when there is agreement in particular sectors[331].

- For those who work in successive shifts, derogations from provisions such as working hours limits and daily rest periods are allowed. Details have been covered in the previous sections.

New Work Systems Act

- Under the framework of new work systems, all workers aged 18 or above may be engaged in night work regardless of sectors.

[330] A works council consists of employee and employer representatives who work together to ensure a regular flow of information and consultation within the company.

[331] The two exceptions are: (1) particular sectors in which the joint committees have concluded collective agreements which provide for additional remuneration for night work; and (2) in the absence of collective agreements, it is additionally provided that specific compensation should be granted to workers employed under night work systems which regularly involve work between midnight and 5:00 a.m.

Appendix 2.11

Working Hours Regulation in the United States

Legislation and Objective

- In the United States, the major labour legislation at the federal level is the Fair Labour Standards Act of 1938 (FLSA) which was enacted in 1938. Its primary objective is to provide, among others, for the establishment of fair labour standards in employment in and affecting interstate commerce. These labour standards include minimum wages, overtime pay, record keeping and youth employment.

Coverage and Exemptions

- There are two ways in which an employee can be covered by the FLSA: "enterprise coverage" and "individual coverage"[332].

  (1) Enterprise coverage: The FLSA applies to enterprises with employees who are engaged in interstate commerce, produce goods for interstate commerce, or handle, sell, or work on goods or materials that have been moved in or produced for interstate commerce. These enterprises, which must have at least two employees, are (a) those with annual sales or business of at least US$500,000 (HK$3,900,000) or (b) hospitals, business providing medical or nursing care for residents, schools and preschools, and public agencies[333].

[332] Special rules apply to state and local government employment involving fire protection and law enforcement activities, and volunteer services.

[333] FLSA covers the following regardless of their dollar volume of business: hospitals, institutions primarily engaged in the care of the sick, aged, mentally ill who reside on the premises, schools for children who are mentally or physically disabled or gifted, preschools, elementary and secondary schools, and institutions of higher education, and public agencies.

(2) Individual coverage: Even when there is no enterprise coverage, employees are covered by the FLSA if they are individually engaged in interstate commerce or in the production of goods for interstate commerce[334]. Besides, domestic service workers[335] are normally covered by the FLSA.

- Examples of employees exempted from overtime payment are:

(1) executive, administrative, and professional employees, and certain skilled computer professionals;

(2) outside sales employees;

(3) highly compensated employees;

(4) employees of certain seasonal amusement or recreational establishments;

(5) employees of certain small newspapers and switchboard operators of small telephone companies;

(6) seamen employed on foreign vessels;

(7) employees engaged in fishing operations;

(8) employees engaged in newspaper delivery;

(9) farm workers employed on small farms (i.e. those that used no more than 500 "man-days" of farm labour in any calendar quarter of the preceding calendar year);

(10) casual babysitters and persons employed as companions to the elderly or infirm;

(11) certain commissioned employees of retail or service establishments;

(12) auto, truck, trailer, farm implement, boat, or aircraft salespersons employed by non-manufacturing establishments primarily engaged in selling these items to ultimate purchasers;

(13) auto, truck, or farm implement parts-clerks and mechanics employed

---

334 Individual coverage also applies in any closely-related process or occupation directly essential to production of goods for interstate commerce. Individual coverage applies to employees such as those who: work in communications or transportation; regularly use the mails, telephones, or telegraph for interstate communication, or keep records of interstate transactions; handle, ship, or receive goods moving in interstate commerce; regularly cross state lines in the course of employment; or work for independent employers who contract to do clerical, custodial, maintenance, or other work for firms engaged in interstate commerce or in the production of goods for interstate commerce.

335 Domestic service workers include day workers, housekeepers, chauffeurs, cooks, or full-time babysitters, if they receive at least US$1,800 (HK$14,040) in cash wages from one employer in a calendar year, or if they work a total of more than eight hours a week for one or more employers. This calendar year threshold is adjusted by the Social Security Administration each year.

by non-manufacturing establishments primarily engaged in selling these items to ultimate purchasers;

(14) railroad and air carrier employees, taxi drivers, certain employees of motor carriers, seamen on American vessels, and local delivery employees paid on approved trip rate plans;

(15) announcers, news editors and chief engineers of certain non-metropolitan broadcasting stations;

(16) domestic service workers who reside in their employers' residences;

(17) employees of motion picture theatres; and

(18) specified farm workers.

- To qualify for exemption, the employees in the exemption category (1) generally must first be paid at least US$455 (HK$3,549) per week on a salary or fee basis[336] or, for computer employees, at an hourly rate not less than US$27.63 (HK$215.5). Besides, the employees' specific job duties must meet the requirements of the government authority's regulations as follows:

Table A2.10: Exemption Types and Relevant Duty Requirements

Exemption Type	Duty Requirements
Executive	• The employee's primary duty must be managing the enterprise or managing a customarily recognised department or subdivision of the enterprise; • The employee must customarily and regularly direct the work of at least two or more other full-time employees or their equivalent; and • The employee must have the authority to hire or fire other employees, or the employee's suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees must be given

[336] Being paid on a "salary basis" means an employee regularly receives a predetermined amount of compensation each pay period on a weekly, or less frequent, basis. The predetermined amount cannot be reduced because of variations in the quality or quantity of the employee's work, save for certain exceptions. Being paid on a "fee basis" means an employee is paid an agreed sum for a single job regardless of the time required for its completion. Executives must be paid on a salary basis, while administrative, professional and computer employees may be paid on a salary or fee basis.

Exemption Type	Duty Requirements
	particular weight.
Administrative[337]	• The employee's primary duty must be performing office or non-manual work directly related to management or general business operations or employer's customers; and • The employee's primary duty includes the exercise of discretion and independent judgement with respect to matters of significance.
Learned professionals[338]	• The employee's primary duty must require advanced knowledge, defined as work which is predominantly intellectual in character and which includes work requiring the consistent exercise of discretion and judgement; • The advanced knowledge must be in a field of science or learning; and • The advanced knowledge must be customarily acquired by a prolonged course of specialised intellectual instruction.
Creative professionals[339]	• The employee's primary duty must require invention, imagination, originality or talent in a recognised field of artistic or creative endeavour.
Computer employees	• The employee must be employed as a computer systems analyst, computer programmer, software engineer or other similarly skilled worker in the computer field performing the duties described below.

337 The administrative exemption is also available to employees compensated on a salary basis which is at least equal to the entrance salary for teachers in the same educational establishment (or at the weekly salary of at least US$455 (HK$3,549) mentioned above), and whose primary duty is performing administrative functions directly related to academic instruction or training in an educational establishment.

338 Those practising law or medicine are exempted. The salary requirements do not apply to bona fide practitioners of law or medicine.

339 Teachers are exempted. The salary requirements do not apply to teachers.

Exemption Type	Duty Requirements
	• The employee's primary duty must consist of: (1) the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications; (2) the design, development, documentation, analysis, creation, testing or modification of computer systems or programmes, including prototypes, based on and related to user or system design specifications; (3) the design, documentation, testing, creation or modification of computer programmes related to machine operating systems; or (4) a combination of the aforementioned duties, the performance of which requires the same level of skills.

- The outside sales employees are also exempted when their primary duty is making sales, obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer; and they are customarily and regularly engaged away from the employer's place or places of business.

- Highly compensated employees whose primary duty includes performing office or non-manual work and are paid total annual compensation of US$100,000 (HK$780,000) or more (which must include at least US$455 (HK$3,549) per week paid on a salary or fee basis) are exempted from the FLSA if they customarily and regularly perform at least one of the duties of an exempt executive, administrative or professional employee identified in the standard tests for exemption.

- The exemptions do not apply to manual labourers or other "blue collar" workers whose work involves repetitive operations with their hands, physical skill and energy. Once covered by the FLSA, non-management employees in production, maintenance, construction and similar

occupations[340] are entitled to overtime premium pay, and are not exempted no matter how highly paid they might be.

Major Definitions

- The terms relevant to working hours provisions as defined under the FLSA or Code of Federal Regulations[341] are set out below:

"Employ"	-	Includes "to suffer or permit to work". Work not requested but suffered or permitted to be performed is work time that must be paid for by the employer.
"Hours worked"	-	In determining the hours for which an employee is employed, there shall be excluded any time spent in changing clothes or washing at the beginning or end of each workday which was excluded from measured working time during the week involved by express terms of or by custom or practice under a bona fide collective-bargaining agreement applicable to the particular employee.
"Work week"	-	Includes "all the time during which an employee is necessarily required to be on the employer's premises, on duty or at a prescribed workplace".
"Workday"	-	The period between the time on any particular day when such employee commences his "principal activity" and the time on that day at which he ceases such principal activity or activities. The workday may therefore be longer than the employee's scheduled shift, hours, tour of duty, or production line time.
"On-call Time"	-	An employee who is required to remain "on-call" on the employer's premises is working while "on-call". An employee who is required to remain "on-call" at home, or who is allowed to leave a message where he can be reached, is not working (in most cases) while "on-call". Additional constraints on the employee's freedom could require this time to be compensated.

[340] For example, carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremen, construction workers and manual labourers.

[341] Code of Federal Regulations also sets out applications of "hours worked" principles in various occasions such as waiting time, on/off duty, rest period, meal period, sleeping time and travel time.

Working Hours Limits

- There is no limit on the number of hours employees aged 16 and over may work in any work week[342]. However, the standard weekly working hours may be taken as 40 hours since overtime pay must be given for work beyond this limit.

Overtime Work and Overtime Pay

- An employee covered by the FLSA must receive overtime pay[343] for hours worked in excess of 40 in a work week at a rate of not less than 1.5 times of their regular rates of pay[344].

- However, a lump sum payment to compensate overtime work irrespective of the number of overtime hours worked does not qualify as overtime premium (even if the lump sum is equal to or greater than the amount calculated on a per-hour basis).

- A fixed salary for a regular work week longer than 40 hours does not discharge the FLSA statutory obligations. Besides, the overtime requirement may not be waived by agreement between employers and employees. An agreement that only 40 hours a week will be counted as working time fails the test of the FLSA's compliance. An announcement by the employer that no overtime work will be permitted, or that overtime work will not be paid for unless authorised in advance, will also not impair the employee's right to remuneration for compensable overtime hours that are worked.

---

342 However, some occupations such as drivers of commercial motor vehicles involved in interstate commerce and commercial passenger airline pilots are subject to specified rules on working hours.

343 An employee of a public agency which is a state, a political sub-division of a state, or an interstate government agency may, subject to certain conditions, receive compensatory time-off (instead of overtime pay) at a rate not less than 1.5 times of the overtime hours worked.

344 The regular rate of pay cannot be less than the minimum wage under the FLSA. The regular rate includes all remuneration for employment except certain payments excluded by the FLSA. Payments which are not part of the regular rate include pay for expenses incurred on the employer's behalf, premium payments for overtime work or the true premiums paid for work on Saturdays, Sundays, and holidays, discretionary bonuses, gifts and payments in the nature of gifts on special occasions, and payments for occasional periods when no work is performed due to vacation, holidays, or illness. Earnings may be determined on a piece-rate, salary, commission, or some other basis, but in all such cases the overtime pay due must be computed on the basis of the average hourly rate derived from such earnings. This is calculated by dividing the total pay for employment (except for the statutory exclusions noted above) in any work week by the total number of hours actually worked.

- The FLSA does not require overtime pay for work on Saturdays, Sundays, holidays, or regular days of rest, unless such work results in a work week longer than 40 hours.

Systems to Allow Flexibility

- There is no flexibility arrangement under the FLSA.

Daily Rest Break

- The FLSA does not stipulate provisions for daily rest break. However, the Code of Federal Regulations indicate that rest periods of short duration within a working day must be counted as hours worked[345] while meal breaks are generally not counted as working time.

Weekly Rest Day

- The FLSA does not stipulate provisions for weekly rest day.

Night Work

- The FLSA does not stipulate provisions for night work.

Shift Work

- The FLSA does not stipulate provisions for shift work.

[345] Unauthorised extensions of authorised work breaks need not be counted as hours worked when the employer has expressly and unambiguously communicated to the employee that the authorised break may only last for a specific length of time, that any extension of the break is contrary to the employer's rules, and any extension of the break will be punished.

Appendix 2.12

Working Hours Regulation in Canada

Legislation and Objective

- In Canada, the major labour legislation at the federal level is the Canada Labour Code which was first enacted in 1967 by consolidating other labour statutes and reissued as part of the Revised Statutes of Canada in 1988. It governs industrial relations (Part I), occupational health and safety (Part II) and labour standards (Part III). Working time is mainly regulated by "Part III of the Canada Labour Code"[346] (the Code).

- The primary objective of the Code is to establish and protect the workers' rights to fair and equitable conditions of employment. The Code contains provisions setting out minimum labour standards for employers and employees in the federal jurisdiction[347].

Coverage and Exemptions

- The Code applies to employees and employers in works, undertakings, or businesses under the federal jurisdiction. These include:

  (1) interprovincial and international services[348];
  (2) radio and television broadcasting;
  (3) air transport, aircraft operations, and aerodromes;
  (4) banks;
  (5) undertakings for the protection and preservation of fisheries as a natural resource;

---

346 Part III of the Canada Labour Code originated from a basic labour standards document enacted in 1965, which covered issues such as hours of work, minimum wages, vacations and statutory holidays (called "general holidays" under the Code).

347 For example, these provisions include standards relating to: hours of work, annual vacations, statutory holidays, maternity leave, parental leave, compassionate care leave and bereavement leave, etc. Unionised undertakings are exempted from the Code in respect of minimum wages, annual vacations, statutory holidays and bereavement leave where the collective agreement provides rights and benefits as favourable or better than those in the Code; and, the collective agreement provides for the settlement of disputes by a third party.

348 Examples include railways; road transport; telephone, telegraph, and cable systems; pipelines; canals; ferries, tunnels, and bridges; shipping and shipping services.

(6) First Nations communities and activities[349];

(7) undertakings declared by Parliament to be for the general advantage of Canada[350]; and

(8) most federal Crown corporations[351].

- The hours of work provisions of the Code[352] do not apply to:

  (1) employees who are managers[353] or superintendents or who exercise management functions; or

  (2) members of the architectural, dental, engineering, legal, or medical professions.

- Some employees[354] who are covered by specific regulations may be exempted from certain hours of work provisions under the Code. For instance, employees in the federal motor transport industry[355] are separately governed by a regulation[356] which replaced the Code in the areas of standard hours of work, averaging arrangements, standard working hours for a week in which a holiday occurs, and maximum weekly working hours[357].

---

349 First Nations is a term of ethnicity that refers to the Aboriginal peoples in Canada who are neither Inuit nor Métis. There are currently over 630 recognized First Nations governments or bands spread across Canada, roughly half of which are in the provinces of Ontario and British Columbia.

350 These include: most grain elevators; flour and seed mills, feed warehouses and grain-seed cleaning plants; and uranium mining and processing and atomic energy.

351 Crown Corporations are enterprises owned by the federal government of Canada or one of Canada's provincial or territorial governments. They involve industries like energy development, resource extraction, public transportation, cultural promotion and property management. However, federal public service employees are not covered by the Code.

352 These provisions include those on standard hours (daily and weekly limits), maximum weekly working hours, overtime pay, averaging of hours and modified work schedule.

353 The Code does not define "managers", which, if in dispute, is left to Court's determination. To decide whether an employee is a manager, one has to analyse particular facts of each situation to ascertain the number and degree of management functions performed by that employee.

354 The major categories of such employees include: employees on ships, truck drivers, running trades employees in railway, and commission salespersons in broadcasting industry.

355 These include bus operators, city motor vehicle operators and highway motor vehicle operators involved in the interprovincial and international transport of goods or passengers and in the transport of mail on contract with Canada Post.

356 That is, Motor Vehicle Operators Hours of Work Regulations.

357 The maximum working hours of commercial vehicle drivers are also regulated by the Commercial Vehicle Drivers Hours of Service Regulations.

- Employers and employees not covered by the Code remain covered by the applicable provincial or territorial legislation (with their own sets of coverage and exemption criteria as well as hours of work provisions).

Major Definitions

- There is no definition of hours of work under the Code[358].

Working Hours Limits

- The standard hours of work are 8 hours in a day and 40 hours in a week.

- The maximum working hours in a week are 48 hours. Such a limit can be exceeded in the following situations:

(A) Exceptional circumstances

If the employer can satisfy the Minister of Labour that exceptional circumstances make extra hours necessary, a permit specifying the number of hours employees may work over a limited period may be granted[359]. The employer should later report on details of additional hours worked by each employee. Obtaining a permit does not exempt the employer from the obligation to pay overtime.

(B) Emergency work

In case of an emergency[360], the maximum hours may be exceeded without a permit, but only to the extent necessary to prevent serious interference with the ordinary working of the industrial establishments affected. The employer is obliged to provide a written report to the authority and to a union representing affected employees, if applicable,

---

358 According to interpretation guidelines issued by the Canadian authority, training required by law or the employer constitutes hours of work. Training initiated on the volition of the employee or developmental voluntary training which prepares the employee for another job does not constitute hours of work.

359 The validity period of the permit should not be longer than the anticipated period of the exceptional circumstances. There are also requirements on how the employers should inform the employees and unions of their application of the permit.

360 Cases of emergency work include: (a) accident to machinery, equipment, plant or persons; (b) urgent and essential work to be done to machinery, equipment or plant; and (c) other unforeseen or unpreventable circumstances.

regarding the nature of the emergency and the excess hours worked by each employee concerned.

Overtime Work and Overtime Pay

- In general, an employee who is required or permitted to work in excess of standard hours (i.e. 8 hours in a day or 40 hours in a week) should be given overtime pay for excess hours worked.

- If the total of daily overtime hours differs from the total of weekly overtime hours, the greater of the two amounts is used in calculating overtime payments[361].

- In some cases[362], overtime pay should be given for work done after the approved daily or weekly limit. For example, for employers implementing a modified work schedule with a compressed work week of 10 hours each day for 4 days in a week, overtime is payable after 10 hours in a day and 40 hours in a week. For employers adopting arrangements to average working hours over a period, at the end of each averaging period, overtime pay is given to employees who work hours in excess of the standard hours in the averaging period. For example, an employee who worked for 170 hours over a 4-week averaging period (standard hours of 160) should be paid 10 hours of overtime pay.

- At least 1.5 times the regular rate of wages must be paid for hours worked in excess of standard hours or approved daily or weekly hours limits.

- The weekly standard hours (normally 40) in a specific week must be reduced by 8 hours for each statutory holiday with pay[363]. Therefore, in a week in which a holiday occurs, overtime would apply after 32 hours.

---

[361] For example, the working hours for an employee in a specific week from Monday to Friday were 9, 7, 10, 8 and 11 respectively. The overtime performed on a daily basis was 1, 0, 2, 0 and 3 respectively, with a total of 6 overtime hours if calculated on a daily basis. The total number of hours worked was 45 and therefore the number of overtime hours on a weekly basis was 5 hours. In this case, 6 hours of overtime pay should be given to the employee.

[362] Examples of these cases are when employers adopt a modified work schedule or arrangement to average working hours over a period. More details about these measures are given under the section of "Systems to Allow Flexibility".

[363] There are similar arrangements for annual leave with pay, bereavement leave with pay, and a working day in respect of which the employee is not entitled to regular wages (e.g. when an employee is off on unpaid sick leave).

Any time worked on a holiday, being already remunerated at not less than 1.5 times of the regular wage rate, is not counted in calculating overtime entitlement.

- Employees who are required to work on a statutory holiday shall be paid, in addition to their regular rate of wages for that day, at a rate at least equal to 1.5 times the regular rate of wages for the time worked on that day[364].

- Employees working under a "continuous operation"[365] who are required to work on a statutory holiday may be paid:

  (1) in addition to their regular rate of wages for that day, at a rate at least equal to 1.5 times the regular rate of wages for the time worked on that day[366];

  (2) at their normal rate for the hours worked on the statutory holiday, provided that they are granted a holiday with pay at some other time; or

  (3) for the first day off after the statutory holiday if it is so provided for in a collective agreement.

- Employees working under a continuous operation are not entitled to holiday pay if they do not report for work on a statutory holiday when requested to do so, or if they make themselves unavailable for work on a statutory holiday.

- Managers or professionals who work on a statutory holiday must be given a holiday with pay at some other time.

---

364 Employees who work on a statutory holiday which is within the first 30 days of employment are entitled to only at least 1.5 times of regular rate of wages for the time worked on that day.

365 "Continuous operation" refers to: (1) any industrial establishment in which, in each seven-day period, operations once begun normally continue without cessation until the completion of the regularly scheduled operations for that period; (2) any operations or services concerned with the running of trains, planes, ships, trucks and other vehicles, whether in scheduled or non-scheduled operations; (3) any telephone, radio, television, telegraph or other communication or broadcasting operations or services; or (4) any operation or service normally carried on without regard to Sundays or public holidays.

366 For employees working under a continuous operation, any work on a statutory holiday which is within the first 30 days of employment is only entitled to the regular rate of wages for the time worked on that day.

Systems to Allow Flexibility

- The Code allows flexibility through an averaging of working hours and modified work schedules.

(A) Averaging of working hours

Averaging of hours is only available where the nature of work of an establishment requires irregular distribution of hours of work[367] and such a requirement is normally caused by external factors (e.g. climate or seasonal demands) over which the employers have little or no control. In such cases, the employer may average the working hours of employees over a selected period of 2 or more consecutive weeks[368]. The averaging period is limited to 3 years if there is no written agreement between the employer and the union[369]. The average standard and maximum weekly working hours should still not exceed 40 and 48 respectively.

(B) Modified work schedules

An employer may establish a modified work schedule or modify or cancel an existing one under which the hours of work may exceed the standard hours. It takes the form of compressed work weeks or flexible hours of work. In order to take effect, modified schedules require either written agreement between the employer and the union or, in situations where the employees are not subject to a collective agreement, approved by 70% of the affected employees[370]. In any modified work schedule, the standard hours of work for a period of 2 or more weeks cannot exceed an average of 40 hours a week, and the

[367] It refers to work with an absence of regularly scheduled hours or work for which regularly scheduled hours differ from time to time, such as tour bus operators who work long hours in the summer and other holiday seasons.

[368] The number of weeks selected should not exceed the period necessary for covering the fluctuations in working hours of the employees concerned.

[369] When there is a written agreement between the employment and union, the averaging of hours of work will be valid for the duration of the agreement or a shorter period as agreed by the parties. There are also detailed requirements about giving prior notice to the employees concerned irrespective of whether there is a written agreement.

[370] There are also detailed requirements on giving prior notice to the employees, conduct of votes to determine the percentage of affected employees approving the modification or cancellation of the work schedule, or duration of the schedule, etc.

maximum hours for the same period cannot exceed an average of 48 hours a week.

Daily Rest Break

- The Code does not stipulate provisions for daily rest break.

Weekly Rest Day

- Hours of work in a week should be scheduled so that each employee has at least one full day of rest per week. Sunday is the normal day of rest where practicable[371]. The Code is silent on whether the rest day is paid or not.

- Employers may also apply for a permit for exemptions from giving the weekly rest day requirements[372].

Night Work

- The Code does not stipulate provisions for night work.

Shift Work

- The Code does not stipulate provisions for shift work.

[371] During the averaging period, hours of work may be scheduled or actually worked without regard to such arrangement of at least one full day of rest per week and where practicable on Sundays. However, the number of rest days given during the period should not be less than the number of weeks in that period.

[372] For employers who have obtained a permit for employees to work in excess of the maximum weekly working hours, the Minister of Labour may, having regard to the conditions of employment in the industrial establishment and the welfare of the employees, also prescribe in the permit alternative days of rest to be observed.

Appendix 3

Working Hours Statistics – Data Sources, Methodology and Limitations

A3.1 In the absence of a comprehensive statistical survey which collects data on both compensated and uncompensated working hours, the distribution of total working hours for employees in the non-government sector as given in this report was estimated based on two statistical surveys conducted by the Census and Statistics Department that cover enquiries on working hours, namely, the Annual Earnings and Hours Survey (AEHS) and the General Household Survey (GHS). However, readers should note the key features of these two surveys and the difference in definitions of working hours between them which are crucial in interpreting the statistics on the working hours patterns of employees in Hong Kong.

Annual Earnings and Hours Survey

A3.2 First launched in the second quarter of 2009, AEHS is an establishment survey that provides comprehensive data on the employees in Hong Kong regarding the level and distribution of their wages, working hours, employment details and demographic profile. Since AEHS is a dedicated survey on earnings as well as working hours statistics, it can provide very useful inputs for analyses related to the statutory minimum wage and standard working hours. As the working hours statistics collected are based on records of the employers, they are generally more accurate than similar data collected from household surveys. The large sample size (around 10 000 business undertakings) also allows finer and in-depth analysis without compromising statistical robustness.

A3.3 In the 2011 AEHS, the number of contractual hours (CH), overtime hours with pay (POT), net overtime hours to be compensated by time-off in lieu (TOIL)[373] and uncompensated overtime hours (UCOT) recognised by the employers for selected individual employees in the private sector were obtained from the administrative records kept by the sampled companies. Nevertheless, overtime hours which are not

[373] Refers to the overtime hours worked in a wage period that are to be compensated by time-off after excluding those that have already been compensated by time-off within the same wage period.

recognised by the employers are not available from AEHS and are in fact difficult to be collected through establishment surveys. The survey data hence cannot fully reflect the total number of working hours of employees which are required for studies on standard working hours in which the group of employees having long working hours is of particular interest.

General Household Survey

A3.4 GHS is another labour-related statistical survey but with a fundamental difference in questionnaire design and usage compared with AEHS. GHS is a household survey and its main objective is to collect information for compiling labour force statistics, including employment, unemployment and underemployment statistics. In addition, information on the demographic and socio-economic characteristics of the population is collected. Drawing information directly from household members, the actual hours of work of individual employees during the seven days before enumeration can be collected. The survey data hence can reflect the actual working hours patterns of employees, with UCOT (including those not recognised by the employers) as well as holidays/vacation leaves and all other factors which would affect the usual hours of work of employees taken into account.

A3.5 As a continuous statistical survey which has been conducted since August 1981, GHS allows in-depth intertemporal analyses of working hours patterns of employees by socio-economic attribute. Nevertheless, the respondent may not be able to accurately recall his or her information on the actual working hours, especially for those having varied daily working hours during the seven days before enumeration.

A3.6 The characteristics of the two surveys are summarised in **Table A3.1**.

Table A3.1: Two surveys for analysing working hours patterns

	AEHS	GHS
1. Survey type	Establishment survey	Household survey
2. Frequency	Annual	Continuous
3. Time horizon	2009 - 2011	August 1981 – latest month
4. Sample size	About 10 000 business undertakings per year	About 8 000 households per month
5. Major target respondents	Employees, excluding those working in the Government as well as live-in domestic workers, student interns and work experience students as exempted by the Minimum Wage Ordinance	Land-based non-institutional population
6. Key variables of working hours	Contractual hours of work and overtime hours worked at the direction of employers	Actual hours of work during the seven days before enumeration
7. Special features	Breakdowns by working hours components (i.e. CH, POT and TOIL)	Breakdowns by detailed socio-economic characteristics
8. Advantages	More accurate, allow more detailed industry breakdowns	Long time series; coverage is more comprehensive with inclusion of information for government employees, live-in domestic workers, employers, self-employed and unpaid family workers
9. Limitations	Short time series; no information gathered for government employees, live-in domestic workers, employers, self-employed and unpaid family workers; overtime hours which are not recognised by the employers are not available	Less accurate due to respondents' recall error

Merged Dataset of AEHS and GHS

A3.7 Given that AEHS and GHS have their own data gaps and limitations, it would be more appropriate to utilise the data from both surveys for a more comprehensive analysis of employees' total working hours:

- **AEHS:** analysing the recent working time situation based on the hours of work covering CH, POT and TOIL recorded by employers, focusing on various socio-economic characteristics;
- **GHS:** complete the picture by examining the pattern of UCOT reported by employees. It can also provide useful information on the trend of actual working hours over time.

A3.8 As data on hours of work were collected from two different statistical surveys, viz. AEHS and GHS, a statistical method is needed to merge the two datasets to facilitate the subsequent cost impact assessment.

A3.9 The merged dataset is formed by appending GHS data on UCOT at individual record level to a similar record in the AEHS dataset using a statistical method. To achieve this, similar records in each survey in terms of socio-economic characteristics of the employees (e.g. industry, occupation, broad income group, etc.) are grouped together and within each group, the records are sorted by working hours and then by earnings. The records in each group in the GHS dataset are then appended sequentially to the records in the corresponding group in the AEHS dataset.

A3.10 A person may take up more than one job. In appending the GHS data on UCOT to the AEHS data, actual working hours for the main employment, instead of for all employments, are taken from GHS for consistency with AEHS in which only one employment is involved for each employee.

Classification of Major Variables of Interest

A3.11 All statistics by industry, unless otherwise specified, are compiled based on the Hong Kong Standard Industrial Classification V2.0. Similarly, all statistics by occupation, unless otherwise specified, are compiled based on the International Standard Classification of Occupations, 1988.

Limitations

A3.12 Ideally, data on total hours actually worked, which would reflect the pattern of actual working hours, should be utilised for the study. The present building block approach has not taken into account

holidays/vacation leaves and TOIL taken in the current wage period to compensate for overtime work done in previous wage periods, hence would tend to overestimate slightly the hours actually worked in a given period. Thus, the statistics from the merged dataset should be interpreted with care.

A3.13 The merged dataset is only one of the many possible combinations which could be achieved by merging the AEHS and GHS data. The cost impact assessment results which are compiled based on this merged dataset are therefore subject to statistical errors.

A3.14 Both AEHS and GHS results are subject to sampling errors. Consequently, the merged dataset is also subject to sampling errors.

A3.15 The working hours data collected in the AEHS mostly pertain to monthly wage periods. Thus, figures on weekly working hours for most cases were derived by averaging method (i.e. dividing the monthly working hours by 52/12) while there might be fluctuations in the weekly working hours in some real life situations.

A3.16 AEHS and GHS have different definitions of working hours and different data collection methods. Such differences should be taken note of when interpreting the results of the cost impact assessment.

Appendix 4

Statistical Appendix of Distribution of Working Hours

Table A4.1	Distribution of weekly compensated working hours by socio-economic attribute (All employees)
Table A4.2	Distribution of weekly compensated working hours by socio-economic attribute (Full-time employees)
Table A4.3	Distribution of weekly contractual working hours by socio-economic attribute (All employees)
Table A4.4	Distribution of weekly contractual working hours by socio-economic attribute (Full-time employees)
Table A4.5	Distribution of weekly paid overtime hours by socio-economic attribute (Employees with paid overtime)
Table A4.6	Distribution of weekly net overtime hours with time-off in lieu (Employees with time-off in lieu)
Table A4.7	Distribution of weekly uncompensated overtime hours by socio-economic attribute (Employees with uncompensated overtime)
Table A4.8	Distribution of estimated total weekly working hours by socio-economic attribute (All employees)
Table A4.9	Distribution of estimated total weekly working hours by socio-economic attribute (Full-time employees)
Table A4.10	Number of employees by estimated total weekly working hours
Table A4.11	Socio-economic characteristics of employees with long-working-hours
Table A4.12	Detailed coverage of economic sectors
Chart A4.1	Estimated total weekly working hours distribution of selected sectors
Chart A4.2	Estimated total weekly working hours distribution by occupation

Table A4.1: Distribution of weekly compensated working hours by socio-economic attribute (All employees)

	Employees		Weekly Working Hours				
				Percentile			
	No. '000	% Share	Average	25th	50th	75th	90th
All employees	2 807.0	100.0	46.0	40.6	45.0	51.5	60.0
I. Gender							
Male	1 464.5	52.2	47.9	40.6	47.5	54.0	62.3
Female	1 342.5	47.8	44.0	40.6	44.3	48.5	56.3
II. Employment status							
Full-time	2 610.5	93.0	48.0	41.1	45.7	53.5	60.0
Part-time	196.4	7.0	19.5	12.2	20.3	25.8	30.0
III. Age group							
15-19	24.4	0.9	34.8	15.7	39.2	51.0	60.0
20-29	572.8	20.4	44.8	40.6	44.3	49.4	57.0
30-39	777.4	27.7	45.3	40.6	44.3	49.2	57.0
40-49	770.3	27.4	46.4	40.6	45.7	54.0	60.2
50-59	531.7	18.9	47.8	41.5	48.0	54.0	64.1
≥60	130.3	4.6	48.0	41.3	48.0	57.0	68.0
IV. Educational attainment							
Primary and below	366.2	13.0	49.9	45.0	49.9	60.0	67.5
Lower secondary (S1 to 3)	403.2	14.4	50.6	44.8	51.0	60.0	66.0
Upper secondary (S4 to 7)	1 133.6	40.4	45.9	40.6	45.2	51.0	60.0
Tertiary education	903.9	32.2	42.5	40.6	42.3	45.7	49.4
V. Sector							
(A) Long-working-hours sectors	766.8	27.3	50.8	43.6	53.1	60.0	66.0
i Retail	262.0	9.3	48.1	41.9	48.0	56.5	62.3
ii Estate management and security	139.5	5.0	57.7	48.0	60.0	69.2	72.0
iii Restaurants	214.4	7.6	50.7	48.0	54.0	60.0	66.0
iv Land transport	126.5	4.5	48.4	39.6	48.0	59.2	65.1
v Elderly homes	18.7	0.7	55.1	45.7	54.0	66.0	72.0
vi Laundry and dry cleaning services	5.7	0.2	47.9	39.2	51.0	58.4	65.0
(B) Other sectors	2 040.2	72.7	44.2	40.6	44.3	48.0	54.0
Manufacturing	113.9	4.1	46.8	44.3	48.0	51.0	57.0
Construction	238.2	8.5	50.0	44.3	48.5	54.6	61.7
Wholesale, import and export trade	475.6	16.9	43.0	40.6	43.2	45.7	49.4
Hotels	38.7	1.4	50.5	48.0	48.7	54.0	54.5
Other transportation, storage, postal and courier services	122.4	4.4	47.5	41.8	46.1	53.4	59.1
Information and communications	98.0	3.5	42.6	40.6	40.6	45.7	49.4
Financing and insurance	202.2	7.2	42.2	40.6	40.6	45.7	49.4
Real estate activities (excl. estate management)	36.1	1.3	43.0	40.2	43.2	48.0	54.0
Professional and business services, scientific and technical activities	170.5	6.1	42.8	40.6	41.9	45.7	49.4
Cleaning services	64.2	2.3	45.4	42.0	48.0	54.0	60.2
Community, social and personal services (excl. v and vi)	463.6	16.5	42.0	39.6	44.3	48.0	54.0
Others	17.0	0.6	45.8	39.8	45.7	48.0	60.5
VI. Occupation							
(A) Higher-skilled occupations	1 110.4	39.6	43.1	40.6	42.6	45.7	50.3
Managers and administrators	296.6	10.6	43.4	40.6	42.6	45.7	49.4
Professionals	190.6	6.8	41.4	39.6	40.6	44.7	47.6
Associate professionals	623.2	22.2	43.6	40.6	43.2	47.5	51.0
(B) Lower-skilled occupations	1 696.6	60.4	47.9	42.0	48.0	54.6	63.4
Clerks	494.9	17.6	42.9	40.6	44.1	46.8	51.0
Service workers and shop sales workers	449.2	16.0	49.0	44.3	51.0	60.0	64.2
Craft and related workers	212.5	7.6	50.3	45.7	48.9	55.4	61.6
Plant and machine operators and assemblers	118.9	4.2	51.8	44.3	52.6	60.0	65.1
Elementary workers	421.0	15.0	50.1	44.3	50.1	60.0	69.2
VII. By establishment size							
Large enterprises	1 525.0	54.3	46.9	40.6	45.7	54.0	62.1
SMEs	1 282.0	45.7	44.9	40.6	44.3	49.9	58.5

Source: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.

Table A4.2: Distribution of weekly compensated working hours by socio-economic attribute (Full-time employees)

	Employees		Weekly Working Hours				
				Percentile			
	No. '000	% Share	Average	25th	50th	75th	90th
All employees	2 610.5	100.0	48.0	41.1	45.7	53.5	60.0
I. Gender							
Male	1 395.9	53.5	49.3	41.9	48.0	54.0	63.0
Female	1 214.6	46.5	46.5	40.6	44.7	49.4	57.2
II. Age group							
15-19	12.4	0.5	52.0	44.3	51.0	57.7	64.3
20-29	536.2	20.5	46.7	40.6	44.7	49.9	57.2
30-39	741.4	28.4	46.5	40.6	44.3	49.4	57.2
40-49	718.7	27.5	48.3	40.6	45.8	54.0	61.4
50-59	486.0	18.6	50.4	43.8	48.0	55.4	66.0
≥60	115.9	4.4	51.6	44.3	48.0	60.0	69.2
III. Educational attainment							
Primary and below	321.4	12.3	53.9	48.0	53.5	60.0	69.2
Lower secondary (S1 to 3)	363.6	13.9	53.6	48.0	54.0	60.0	66.0
Upper secondary (S4 to 7)	1 055.4	40.4	47.9	42.0	45.7	52.6	60.0
Tertiary education	870.1	33.3	43.5	40.6	42.5	45.7	49.4
IV. Sector							
(A) Long-working-hours sectors	688.2	26.4	54.2	46.5	54.0	60.0	68.5
i Retail	228.9	8.8	51.8	45.0	51.0	59.4	63.0
ii Estate management and security	136.8	5.2	58.6	48.0	60.0	71.8	72.0
iii Restaurants	185.1	7.1	55.4	49.5	54.9	60.0	66.0
iv Land transport	114.9	4.4	51.3	42.0	52.0	60.0	65.1
v Elderly homes	18.0	0.7	56.3	46.7	54.0	66.0	72.0
vi Laundry and dry cleaning services	4.5	0.2	53.1	45.5	54.0	59.3	65.3
(B) Other sectors	1 922.3	73.6	45.8	40.6	44.3	48.2	54.0
Manufacturing	106.3	4.1	48.6	44.3	48.0	52.0	57.8
Construction	228.0	8.7	51.1	46.8	49.4	54.7	61.9
Wholesale, import and export trade	458.5	17.6	44.0	40.6	43.8	45.7	49.4
Hotels	*	*	*	*	*	*	*
Other transportation, storage, postal and courier services	119.9	4.6	48.1	41.9	46.4	53.9	59.5
Information and communications	96.0	3.7	43.2	40.6	40.6	45.7	49.4
Financing and insurance	197.9	7.6	42.7	40.6	40.6	45.7	49.4
Real estate activities (excl. estate management)	34.1	1.3	44.7	40.6	43.4	48.0	54.0
Professional and business services, scientific and technical activities	164.6	6.3	43.8	40.6	42.2	45.7	49.4
Cleaning services	52.2	2.0	51.1	48.0	48.0	57.0	60.2
Community, social and personal services (excl. v and vi)	409.7	15.7	45.3	40.6	44.7	48.0	54.0
Others	*	*	*	*	*	*	*
V. Occupation							
(A) Higher-skilled occupations	1 072.4	41.1	44.1	40.6	43.2	46.2	50.8
Managers and administrators	291.7	11.2	43.9	40.6	43.2	45.7	49.4
Professionals	183.5	7.0	42.4	39.6	40.6	44.7	47.8
Associate professionals	597.1	22.9	44.7	40.6	44.3	48.0	51.6
(B) Lower-skilled occupations	1 538.1	58.9	50.7	44.3	48.0	56.3	64.2
Clerks	462.3	17.7	44.6	40.6	44.3	47.5	51.7
Service workers and shop sales workers	385.5	14.8	53.6	48.0	54.0	60.0	66.0
Craft and related workers	204.7	7.8	51.4	48.0	49.9	55.9	61.7
Plant and machine operators and assemblers	116.5	4.5	52.4	44.4	53.4	60.0	65.1
Elementary workers	369.1	14.1	54.3	48.0	54.0	60.2	72.0
VI. By establishment size							
Large enterprises	1 440.6	55.2	48.5	40.6	45.7	54.0	62.9
SMEs	1 170.0	44.8	47.3	41.8	45.7	51.0	60.0

Note: * Figures are not released owing to relatively large sampling error.
Source: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.

Table A4.3: Distribution of weekly contractual working hours by socio-economic attribute (All employees)

	Employees		Weekly Working Hours				
				Percentile			
	No. '000	% Share	Average	25th	50th	75th	90th
All employees	2 807.0	100.0	45.2	40.6	44.5	49.7	59.5
I. Gender							
Male	1 464.5	52.2	46.8	40.6	45.7	54.0	60.0
Female	1 342.5	47.8	43.6	40.6	44.3	48.0	54.0
II. Employment status							
Full-time	2 610.5	93.0	47.2	40.6	45.2	51.0	60.0
Part-time	196.4	7.0	19.4	12.0	20.3	25.4	30.0
III. Age group							
15-19	24.4	0.9	34.3	15.5	38.1	49.9	60.0
20-29	572.8	20.4	44.0	40.6	44.3	48.0	54.0
30-39	777.4	27.7	44.7	40.6	44.3	48.0	54.0
40-49	770.3	27.4	45.5	40.6	45.0	51.0	60.0
50-59	531.7	18.9	47.0	41.3	48.0	54.0	60.9
≥60	130.3	4.6	47.3	40.8	48.0	55.4	66.0
IV. Educational attainment							
Primary and below	366.2	13.0	48.8	44.3	48.0	56.1	66.0
Lower secondary (S1 to 3)	403.2	14.4	49.5	44.3	49.4	57.0	66.0
Upper secondary (S4 to 7)	1 133.6	40.4	45.1	40.6	44.4	49.4	57.0
Tertiary education	903.9	32.2	42.1	40.6	41.9	45.7	48.9
V. Sector							
(A) Long-working-hours sectors	766.8	27.3	50.1	43.2	51.0	60.0	66.0
i Retail	262.0	9.3	47.5	41.8	48.0	54.0	60.0
ii Estate management and security	139.5	5.0	57.5	48.0	60.0	69.2	72.0
iii Restaurants	214.4	7.6	50.6	47.5	54.0	60.0	64.2
iv Land transport	126.5	4.5	46.1	39.6	48.0	54.0	60.0
v Elderly homes	18.7	0.7	54.8	45.0	54.0	66.0	72.0
vi Laundry and dry cleaning services	5.7	0.2	44.3	36.0	48.0	54.0	57.0
(B) Other sectors	2 040.2	72.7	43.4	40.6	44.3	48.0	54.0
Manufacturing	113.9	4.1	44.9	43.2	45.5	48.2	54.0
Construction	238.2	8.5	47.9	44.3	48.0	54.0	55.1
Wholesale, import and export trade	475.6	16.9	42.7	40.6	43.2	45.7	49.4
Hotels	38.7	1.4	50.4	48.0	48.7	54.0	54.0
Other transportation, storage, postal and courier services	122.4	4.4	45.1	40.6	44.3	48.0	54.0
Information and communications	98.0	3.5	41.8	39.6	40.6	44.3	48.0
Financing and insurance	202.2	7.2	42.0	40.6	40.6	45.7	48.0
Real estate activities (excl. estate management)	36.1	1.3	42.9	40.2	43.2	48.0	54.0
Professional and business services, scientific and technical activities	170.5	6.1	42.1	40.6	40.6	45.7	48.0
Cleaning services	64.2	2.3	44.5	42.0	48.0	54.0	60.0
Community, social and personal services (excl. v and vi)	463.6	16.5	41.8	39.6	44.3	48.0	53.1
Others	17.0	0.6	43.9	39.8	45.7	46.2	48.0
VI. Occupation							
(A) Higher-skilled occupations	1 110.4	39.6	42.8	40.6	42.5	45.7	49.4
Managers and administrators	296.6	10.6	43.3	40.6	42.6	45.7	49.4
Professionals	190.6	6.8	41.1	39.6	40.6	44.7	47.1
Associate professionals	623.2	22.2	43.1	40.6	43.2	46.4	49.9
(B) Lower-skilled occupations	1 696.6	60.4	46.8	41.8	48.0	54.0	60.0
Clerks	494.9	17.6	42.5	40.6	43.4	45.7	49.4
Service workers and shop sales workers	449.2	16.0	48.5	43.7	49.9	60.0	63.0
Craft and related workers	212.5	7.6	47.8	44.3	48.0	54.0	56.0
Plant and machine operators and assemblers	118.9	4.2	49.0	43.2	48.0	54.0	60.0
Elementary workers	421.0	15.0	49.2	43.2	48.0	57.7	69.0
VII. By establishment size							
Large enterprises	1 525.0	54.3	45.8	40.6	44.7	49.9	60.0
SMEs	1 282.0	45.7	44.5	40.6	44.3	49.4	57.0

Source: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.

Table A4.4: Distribution of weekly contractual working hours by socio-economic attribute (Full-time employees)

	Employees		Weekly Working Hours				
				Percentile			
	No. '000	% Share	Average	25th	50th	75th	90th
All employees	2 610.5	100.0	47.2	40.6	45.2	51.0	60.0
I. Gender							
Male	1 395.9	53.5	48.1	41.5	46.8	54.0	60.0
Female	1 214.6	46.5	46.1	40.6	44.3	48.5	55.1
II. Age group							
15-19	12.4	0.5	51.1	44.3	49.9	57.0	60.6
20-29	536.2	20.5	45.9	40.6	44.3	48.5	54.0
30-39	741.4	28.4	45.9	40.6	44.3	48.0	54.0
40-49	718.7	27.5	47.3	40.6	45.7	52.0	60.0
50-59	486.0	18.6	49.5	43.2	48.0	54.0	62.3
≥60	115.9	4.4	50.7	44.3	48.0	57.0	66.0
III. Educational attainment							
Primary and below	321.4	12.3	52.7	48.0	51.0	60.0	66.0
Lower secondary (S1 to 3)	363.6	13.9	52.5	48.0	51.0	60.0	66.0
Upper secondary (S4 to 7)	1 055.4	40.4	47.0	41.8	45.0	49.9	57.7
Tertiary education	870.1	33.3	43.1	40.6	42.5	45.7	49.1
IV. Sector							
(A) Long-working-hours sectors	688.2	26.4	53.4	45.7	54.0	60.0	66.0
i Retail	228.9	8.8	51.2	44.3	49.9	57.0	60.7
ii Estate management and security	136.8	5.2	58.3	48.0	60.0	69.2	72.0
iii Restaurants	185.1	7.1	55.2	49.2	54.6	60.0	66.0
iv Land transport	114.9	4.4	48.9	42.0	48.0	54.0	60.0
v Elderly homes	18.0	0.7	56.0	46.7	54.0	66.0	72.0
vi Laundry and dry cleaning services	4.5	0.2	49.9	45.0	48.0	54.0	57.0
(B) Other sectors	1 922.3	73.6	45.0	40.6	44.3	48.0	54.0
Manufacturing	106.3	4.1	46.6	44.3	46.4	48.5	54.0
Construction	228.0	8.7	48.9	45.0	48.0	54.0	55.1
Wholesale, import and export trade	458.5	17.6	43.6	40.6	43.2	45.7	49.4
Hotels	*	*	*	*	*	*	*
Other transportation, storage, postal and courier services	119.9	4.6	45.7	40.6	44.3	48.0	54.0
Information and communications	96.0	3.7	42.4	40.6	40.6	44.3	48.0
Financing and insurance	197.9	7.6	42.5	40.6	40.6	45.7	48.2
Real estate activities (excl. estate management)	34.1	1.3	44.6	40.6	43.2	48.0	54.0
Professional and business services, scientific and technical activities	164.6	6.3	43.1	40.6	41.3	45.7	48.0
Cleaning services	52.2	2.0	50.0	48.0	48.0	54.0	60.0
Community, social and personal services (excl. v and vi)	409.7	15.7	45.0	40.6	44.5	48.0	54.0
Others	*	*	*	*	*	*	*
V. Occupation							
(A) Higher-skilled occupations	1 072.4	41.1	43.7	40.6	42.6	45.7	49.5
Managers and administrators	291.7	11.2	43.8	40.6	42.8	45.7	49.4
Professionals	183.5	7.0	42.2	39.6	40.6	44.7	47.3
Associate professionals	597.1	22.9	44.2	40.6	43.2	47.0	50.1
(B) Lower-skilled occupations	1 538.1	58.9	49.6	43.8	48.0	54.0	60.1
Clerks	462.3	17.7	44.2	40.6	44.3	46.8	49.9
Service workers and shop sales workers	385.5	14.8	53.0	48.0	54.0	60.0	64.2
Craft and related workers	204.7	7.8	48.8	45.0	48.0	54.0	56.1
Plant and machine operators and assemblers	116.5	4.5	49.5	44.3	48.5	54.0	60.0
Elementary workers	369.1	14.1	53.2	46.2	51.0	60.0	69.2
VI. By establishment size							
Large enterprises	1 440.6	55.2	47.4	40.6	45.1	51.0	60.0
SMEs	1 170.0	44.8	46.9	41.5	45.2	49.9	57.7

Note: * Figures are not released owing to relatively large sampling error.
Source: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.

Table A4.5: Distribution of weekly paid overtime hours by socio-economic attribute (Employees with paid overtime)

	Employees			Weekly Working Hours				
					Percentile			
	Number '000	% Share in total	% Share in the respective groups	Average	25th	50th	75th	90th
All employees	292.5	100.0	10.4	7.0	2.0	5.3	9.7	16.2
I. Gender								
Male	205.5	70.2	14.0	7.6	2.3	6.2	10.3	17.1
Female	87.0	29.8	6.5	5.5	1.6	3.8	6.9	13.2
II. Employment status								
Full-time	283.8	97.0	10.9	7.1	2.2	5.5	9.9	16.5
Part-time	8.7	3.0	4.4	2.9	0.5	1.8	3.2	5.5
III. Age group								
15-19	2.5	0.8	10.1	5.0	1.2	2.4	9.2	12.1
20-29	65.5	22.4	11.4	6.3	1.6	4.5	8.9	14.8
30-39	60.8	20.8	7.8	6.8	1.8	5.8	8.2	15.6
40-49	79.9	27.3	10.4	8.4	3.1	6.3	11.0	18.0
50-59	69.9	23.9	13.1	6.3	1.8	3.7	9.2	15.2
≥60	13.9	4.8	10.7	7.0	2.2	7.4	9.2	13.1
IV. Educational attainment								
Primary and below	59.5	20.4	16.3	6.6	2.1	4.4	9.2	15.3
Lower secondary (S1 to 3)	53.5	18.3	13.3	7.8	2.3	6.1	9.5	17.7
Upper secondary (S4 to 7)	131.9	45.1	11.6	6.8	1.8	5.5	9.7	15.7
Tertiary education	47.6	16.3	5.3	6.9	1.8	4.6	10.0	16.2
V. Sector								
(A) Long-working-hours sectors	74.0	25.3	9.7	6.9	2.4	5.8	9.7	15.1
i Retail	20.1	6.9	7.7	6.7	1.9	4.4	9.0	19.6
ii Estate management and security	11.2	3.8	8.0	3.0	1.0	1.8	4.0	6.0
iii Restaurants	5.7	1.9	2.6	5.7	1.6	4.6	7.9	11.1
iv Land transport	34.5	11.8	27.3	8.2	4.9	7.7	10.3	15.7
v Elderly homes	0.6	0.2	3.4	6.6	*	*	*	16.2
vi Laundry and dry cleaning services	1.9	0.6	33.0	10.8	*	7.3	13.4	25.3
(B) Other sectors	218.5	74.7	10.7	7.0	2.0	4.8	9.6	16.5
Manufacturing	24.3	8.3	21.3	8.5	3.5	7.4	12.8	17.1
Construction	73.7	25.2	31.0	6.8	1.8	4.0	9.2	16.0
Wholesale, import and export trade	25.0	8.5	5.3	6.2	1.6	4.7	8.1	13.8
Hotels	*	*	*	*	*	*	*	*
Other transportation, storage, postal and courier services	34.9	11.9	28.6	8.3	3.0	6.9	12.0	18.0
Information and communications	6.5	2.2	6.6	11.3	2.5	10.3	15.7	28.8
Financing and insurance	8.8	3.0	4.4	3.5	1.4	1.8	4.4	7.6
Real estate activities (excl. estate management)	*	*	*	*	*	*	*	*
Professional and business services, scientific and technical activities	15.6	5.3	9.1	6.5	1.9	4.6	9.2	15.2
Cleaning services	10.0	3.4	15.6	5.9	4.2	6.2	6.2	9.2
Community, social and personal services (excl. v and vi)	16.0	5.5	3.5	4.9	1.2	3.1	6.2	12.2
Others	2.9	1.0	17.0	10.8	7.4	12.5	15.9	17.1
VI. Occupation								
(A) Higher-skilled occupations	56.8	19.4	5.1	6.2	1.4	3.9	8.3	15.2
Managers and administrators	5.3	1.8	1.8	6.1	1.8	2.8	9.2	16.6
Professionals	5.5	1.9	2.9	6.8	1.7	3.7	7.8	17.2
Associate professionals	46.0	15.7	7.4	6.1	1.4	4.2	8.3	15.2
(B) Lower-skilled occupations	235.7	80.6	13.9	7.2	2.2	5.5	10.0	16.6
Clerks	33.8	11.5	6.8	5.8	1.2	3.2	8.1	17.2
Service workers and shop sales workers	31.7	10.8	7.0	6.8	2.1	4.8	9.8	16.1
Craft and related workers	68.2	23.3	32.1	7.9	2.3	4.6	10.3	18.0
Plant and machine operators and assemblers	36.4	12.4	30.6	9.2	5.6	7.7	11.5	17.4
Elementary workers	65.7	22.5	15.6	6.2	2.3	5.0	8.1	12.1
VII. By establishment size								
Large enterprises	205.9	70.4	13.5	7.8	2.6	6.3	10.6	17.0
SMEs	86.6	29.6	6.8	5.0	1.3	2.8	6.9	11.9

Note: * Figures are not released owing to relatively large sampling error.
Source: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.

Table A4.6: Distribution of weekly net overtime hours with time-off in lieu (Employees with time-off in lieu)

	Employees			Weekly Working Hours				
					Percentile			
	Number '000	% Share in total	% Share in the respective groups	Average	25th	50th	75th	90th
All employees	50.6	100.0	1.8	1.9	0.5	1.0	2.3	5.0
I. Gender								
Male	20.2	40.0	1.4	2.1	0.7	1.4	2.3	5.1
Female	30.4	60.0	2.3	1.8	0.5	0.9	2.3	5.0
II. Employment status								
Full-time	49.2	97.2	1.9	1.9	0.5	1.0	2.3	5.0
Part-time	1.4	2.8	0.7	1.8	*	1.0	1.6	5.4
III. Age group								
15-19	*	*	*	*	*	*	*	*
20-29	12.9	25.5	2.3	2.2	0.7	1.3	3.2	5.5
30-39	15.4	30.3	2.0	1.8	0.3	0.9	2.3	5.1
40-49	11.6	22.8	1.5	2.0	0.7	1.2	2.6	5.1
50-59	10.0	19.8	1.9	1.4	0.7	1.2	1.7	2.3
≥60	*	*	*	*	*	*	*	*
IV. Educational attainment								
Primary and below	2.7	5.3	0.7	2.4	0.7	1.4	3.5	6.6
Lower secondary (S1 to 3)	5.7	11.3	1.4	1.4	0.5	0.8	1.6	3.6
Upper secondary (S4 to 7)	23.1	45.7	2.0	1.5	0.3	0.9	2.1	3.5
Tertiary education	19.1	37.7	2.1	2.4	0.9	1.5	3.5	5.5
V. Sector								
(A) Long-working-hours sectors	12.1	24.0	1.6	1.6	0.3	0.8	1.8	5.4
i Retail	6.8	13.3	2.6	1.7	0.5	0.8	2.1	5.4
ii Estate management and security	1.7	3.3	1.2	1.1	*	0.6	1.6	2.7
iii Restaurants	1.5	3.0	0.7	2.6	*	0.8	4.2	8.3
iv Land transport	*	*	*	*	*	*	*	*
v Elderly homes	2.2	4.3	11.6	1.1	0.5	0.8	1.4	2.3
vi Laundry and dry cleaning services	*	*	*	*	*	*	*	*
(B) Other sectors	38.5	76.0	1.9	2.0	0.7	1.2	2.3	5.0
Manufacturing	2.7	5.2	2.3	1.1	0.9	0.9	0.9	0.9
Construction	*	*	*	*	*	*	*	*
Wholesale, import and export trade	3.4	6.6	0.7	2.1	1.2	1.8	2.6	3.5
Hotels	1.2	2.4	3.2	2.3	*	1.0	3.1	5.5
Other transportation, storage, postal and courier services	0.6	1.2	0.5	2.0	*	*	*	6.0
Information and communications	1.7	3.3	1.7	3.4	*	3.0	5.1	5.3
Financing and insurance	1.4	2.8	0.7	3.8	*	1.8	5.5	13.8
Real estate activities (excl. estate management)	0.5	1.0	1.4	2.1	*	*	*	*
Professional and business services, scientific and technical activities	1.8	3.5	1.0	4.1	*	3.7	5.0	6.2
Cleaning services	*	*	*	*	*	*	*	*
Community, social and personal services (excl. v and vi)	24.2	47.9	5.2	1.7	0.5	0.9	2.3	4.4
Others	0.8	1.6	4.6	1.8	*	*	1.8	1.8
VI. Occupation								
(A) Higher-skilled occupations	18.8	37.2	1.7	2.5	0.9	1.6	3.7	5.5
Managers and administrators	4.3	8.6	1.5	3.1	1.4	1.8	5.0	6.2
Professionals	6.2	12.2	3.2	2.3	0.6	1.2	3.7	6.9
Associate professionals	8.3	16.4	1.3	2.2	0.9	1.4	2.3	5.1
(B) Lower-skilled occupations	31.8	62.8	1.9	1.6	0.5	0.9	1.8	4.0
Clerks	8.8	17.5	1.8	1.8	0.5	1.2	2.6	4.4
Service workers and shop sales workers	17.0	33.6	3.8	1.4	0.3	0.9	1.5	2.7
Craft and related workers	*	*	*	*	*	*	*	*
Plant and machine operators and assemblers	*	*	*	*	*	*	*	*
Elementary workers	4.1	8.0	1.0	1.9	0.3	0.8	2.1	6.6
VII. By establishment size								
Large enterprises	30.0	59.2	2.0	1.7	0.5	0.9	1.8	4.4
SMEs	20.7	40.8	1.6	2.2	0.8	1.4	2.8	5.4

Note: * Figures are not released owing to relatively large sampling error.
Source: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.

Table A4.7: Distribution of weekly uncompensated overtime hours by socio-economic attribute (Employees with uncompensated overtime)

	Employees			Weekly Working Hours				
					Percentile			
	Number '000	% Share in total	% Share in the respective groups	Average	25th	50th	75th	90th
All employees	338.7	100.0	12.1	8.0	5.0	7.5	10.0	15.0
I. Gender								
Male	176.8	52.2	12.1	8.1	5.0	7.5	10.0	15.0
Female	161.9	47.8	12.1	7.9	5.0	7.5	10.0	15.0
II. Age group								
15-19	*	*	*	*	*	*	*	*
20-29	70.9	20.9	12.4	7.8	5.0	7.0	10.0	15.0
30-39	114.0	33.6	14.7	8.0	5.0	7.5	10.0	15.0
40-49	95.5	28.2	12.4	8.0	5.0	7.5	10.0	15.0
50-59	46.9	13.9	8.8	8.5	5.0	7.5	10.0	15.0
≥60	*	*	*	*	*	*	*	*
III. Educational attainment								
Primary and below	6.8	2.0	1.9	7.6	5.0	6.0	10.0	12.5
Lower secondary (S1 to 3)	13.5	4.0	3.3	7.6	4.0	6.0	10.0	12.5
Upper secondary (S4 to 7)	121.3	35.8	10.7	7.6	4.5	6.0	10.0	13.0
Tertiary education	197.1	58.2	21.8	8.4	5.0	8.0	10.0	15.0
IV. Sector								
(A) Long-working-hours sectors	37.3	11.0	4.9	7.6	4.0	6.0	10.0	15.0
i Retail	15.3	4.5	5.9	7.3	4.0	6.0	10.0	12.0
ii Estate management and security	7.4	2.2	5.3	7.9	5.0	7.5	10.0	15.0
iii Restaurants	6.8	2.0	3.2	7.5	3.0	6.0	12.0	15.0
iv Land transport	7.2	2.1	5.7	7.9	4.0	7.5	12.0	15.0
v Elderly homes	*	*	*	*	*	*	*	*
vi Laundry and dry cleaning services	*	*	*	*	*	*	*	*
(B) Other sectors	301.4	89.0	14.8	8.1	5.0	7.5	10.0	15.0
Manufacturing	8.7	2.6	7.7	7.7	4.0	6.0	10.0	18.0
Construction	14.9	4.4	6.3	7.9	5.0	7.5	10.0	12.0
Wholesale, import and export trade	87.5	25.8	18.4	7.8	5.0	7.5	10.0	13.0
Hotels	2.7	0.8	7.0	9.2	5.0	10.0	12.0	15.0
Other transportation, storage, postal and courier services	14.1	4.1	11.5	7.6	4.0	7.5	10.0	12.0
Information and communications	20.1	5.9	20.5	8.0	5.0	8.0	10.0	15.0
Financing and insurance	59.7	17.6	29.5	8.9	5.0	8.0	10.0	15.0
Real estate activities (excl. estate management)	8.6	2.5	23.8	8.3	5.0	7.5	10.0	15.0
Professional and business services, scientific and technical activities	38.0	11.2	22.3	8.4	5.0	8.0	10.0	15.0
Cleaning services	0.7	0.2	1.2	9.9	*	*	15.0	18.0
Community, social and personal services (excl. v and vi)	43.8	12.9	9.5	7.5	4.0	6.0	10.0	12.0
Others	2.5	0.7	14.6	8.7	4.0	7.5	10.0	24.0
V. Occupation								
(A) Higher-skilled occupations	259.2	76.5	23.3	8.4	5.0	8.0	10.0	15.0
Managers and administrators	87.1	25.7	29.4	8.7	5.0	8.0	10.0	15.0
Professionals	51.6	15.2	27.1	8.8	5.0	8.0	10.0	15.0
Associate professionals	120.5	35.6	19.3	8.0	5.0	7.5	10.0	15.0
(B) Lower-skilled occupations	79.5	23.5	4.7	6.9	4.0	6.0	10.0	12.0
Clerks	56.0	16.5	11.3	6.7	4.0	5.0	10.0	12.0
Service workers and shop sales workers	9.5	2.8	2.1	7.9	5.0	6.0	12.0	15.0
Craft and related workers	5.6	1.7	2.7	7.1	4.0	6.0	10.0	12.0
Plant and machine operators and assemblers	4.1	1.2	3.5	7.2	4.0	6.0	12.0	15.0
Elementary workers	4.3	1.3	1.0	7.0	3.0	6.0	10.0	12.0
VI. By establishment size								
Large enterprises	189.1	55.8	12.4	8.3	5.0	7.5	10.0	15.0
SMEs	149.6	44.2	11.7	7.8	5.0	7.0	10.0	12.5

Note: * Figures are not released owing to relatively large sampling error.
Sources: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.
Aug-Oct 2011 General Household Survey, Census & Statistics Department.

Table A4.8: Distribution of estimated total weekly working hours by socio-economic attribute (All employees)

	Employees		Weekly Working Hours				
				Percentile			
	No. '000	% Share	Average	25th	50th	75th	90th
All employees	2 807.0	100.0	47.0	41.1	46.6	54.0	60.0
I. Gender							
Male	1 464.5	52.2	48.8	42.5	48.0	54.3	63.4
Female	1 342.5	47.8	44.9	40.6	45.0	50.3	57.7
II. Employment status							
Full-time	2 610.5	93.0	49.0	42.5	48.0	54.0	60.6
Part-time	196.4	7.0	19.6	12.2	20.3	25.8	30.0
III. Age group							
15-19	24.4	0.9	34.8	15.7	39.2	51.0	60.0
20-29	572.8	20.4	45.7	40.6	45.6	51.0	57.8
30-39	777.4	27.7	46.4	40.6	45.7	50.7	59.4
40-49	770.3	27.4	47.4	41.1	47.8	54.0	61.4
50-59	531.7	18.9	48.6	42.5	48.0	55.4	65.3
≥60	130.3	4.6	48.7	42.0	48.0	57.0	69.0
IV. Educational attainment							
Primary and below	366.2	13.0	50.0	45.0	50.3	60.0	68.4
Lower secondary (S1 to 3)	403.2	14.4	50.8	45.0	51.3	60.0	66.0
Upper secondary (S4 to 7)	1 133.6	40.4	46.7	41.8	46.8	54.0	60.0
Tertiary education	903.9	32.2	44.3	40.6	44.3	48.2	54.0
V. Sector							
(A) Long-working-hours sectors	766.8	27.3	51.2	44.3	54.0	60.0	66.5
i Retail	262.0	9.3	48.5	42.0	49.4	57.0	62.3
ii Estate management and security	139.5	5.0	58.2	48.0	60.0	70.0	72.0
iii Restaurants	214.4	7.6	51.0	48.0	54.0	60.0	66.0
iv Land transport	126.5	4.5	48.8	41.5	49.4	60.0	65.1
v Elderly homes	18.7	0.7	55.3	46.2	54.0	66.0	72.0
vi Laundry and dry cleaning services	5.7	0.2	47.9	39.2	51.0	58.4	65.0
(B) Other sectors	2 040.2	72.7	45.4	40.6	45.3	49.9	55.7
Manufacturing	113.9	4.1	47.4	44.3	48.0	52.5	58.2
Construction	238.2	8.5	50.5	45.9	49.7	55.1	62.1
Wholesale, import and export trade	475.6	16.9	44.5	40.6	44.3	48.0	52.5
Hotels	38.7	1.4	51.1	48.0	50.8	54.0	60.0
Other transportation, storage, postal and courier services	122.4	4.4	48.3	42.5	47.5	54.0	60.0
Information and communications	98.0	3.5	44.3	40.6	43.2	47.8	54.0
Financing and insurance	202.2	7.2	44.8	40.6	44.3	49.4	52.6
Real estate activities (excl. estate management)	36.1	1.3	44.9	40.6	44.8	49.7	54.0
Professional and business services, scientific and technical activities	170.5	6.1	44.6	40.6	44.3	48.1	54.0
Cleaning services	64.2	2.3	45.5	42.0	48.0	54.0	60.2
Community, social and personal services (excl. v and vi)	463.6	16.5	42.8	39.9	44.6	48.2	54.0
Others	17.0	0.6	47.1	39.9	45.7	51.0	61.4
VI. Occupation							
(A) Higher-skilled occupations	1 110.4	39.6	45.1	40.6	44.5	49.4	54.1
Managers and administrators	296.6	10.6	46.0	40.6	45.7	49.5	54.5
Professionals	190.6	6.8	43.7	40.6	44.3	47.5	54.0
Associate professionals	623.2	22.2	45.1	40.6	44.3	49.4	54.3
(B) Lower-skilled occupations	1 696.6	60.4	48.2	42.0	48.0	55.1	63.5
Clerks	494.9	17.6	43.6	40.6	44.3	48.0	54.0
Service workers and shop sales workers	449.2	16.0	49.2	44.3	51.0	60.0	64.2
Craft and related workers	212.5	7.6	50.5	46.4	49.3	55.9	61.7
Plant and machine operators and assemblers	118.9	4.2	52.1	44.3	53.4	60.0	65.1
Elementary workers	421.0	15.0	50.2	44.4	50.4	60.0	69.2
VII. By establishment size							
Large enterprises	1 525.0	54.3	48.0	41.5	47.5	54.0	63.0
SMEs	1 282.0	45.7	45.8	40.6	45.7	51.9	60.0

Sources: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.
Aug-Oct 2011 General Household Survey, Census & Statistics Department.

Table A4.9: Distribution of estimated total weekly working hours by socio-economic attribute (Full-time employees)

	Employees		Weekly Working Hours				
				Percentile			
	No. '000	% Share	Average	25th	50th	75th	90th
All employees	2 610.5	100.0	49.0	42.5	48.0	54.0	60.6
I. Gender							
Male	1 395.9	53.5	50.3	43.9	48.0	55.0	63.7
Female	1 214.6	46.5	47.6	42.0	45.7	51.0	60.0
II. Age group							
15-19	12.4	0.5	52.0	44.5	51.0	57.7	64.3
20-29	536.2	20.5	47.7	41.8	45.7	51.2	58.7
30-39	741.4	28.4	47.7	42.0	45.7	51.0	60.0
40-49	718.7	27.5	49.3	42.5	48.0	54.0	62.3
50-59	486.0	18.6	51.2	44.3	48.5	56.9	66.0
≥60	115.9	4.4	52.3	44.7	49.4	60.0	69.2
III. Educational attainment							
Primary and below	321.4	12.3	54.0	48.0	54.0	60.0	69.2
Lower secondary (S1 to 3)	363.6	13.9	53.9	48.0	54.0	60.0	66.6
Upper secondary (S4 to 7)	1 055.4	40.4	48.8	42.9	48.0	54.0	60.0
Tertiary education	870.1	33.3	45.4	40.6	44.3	48.7	54.0
IV. Sector							
(A) Long-working-hours sectors	688.2	26.4	54.6	48.0	54.0	60.3	69.0
i Retail	228.9	8.8	52.3	45.7	51.0	60.0	63.7
ii Estate management and security	136.8	5.2	59.0	48.0	60.0	71.8	72.0
iii Restaurants	185.1	7.1	55.7	50.3	55.0	60.0	66.0
iv Land transport	114.9	4.4	51.8	42.0	53.1	60.0	65.1
v Elderly homes	18.0	0.7	56.6	47.3	54.6	66.0	72.0
vi Laundry and dry cleaning services	4.5	0.2	53.1	45.5	54.0	59.3	66.0
(B) Other sectors	1 922.3	73.6	47.0	41.5	45.7	50.3	56.1
Manufacturing	106.3	4.1	49.2	44.3	48.0	54.0	59.0
Construction	228.0	8.7	51.6	48.0	49.9	55.5	62.5
Wholesale, import and export trade	458.5	17.6	45.5	40.6	44.3	48.2	52.8
Hotels	*	*	*	*	*	*	*
Other transportation, storage, postal and courier services	119.9	4.6	49.0	42.5	48.0	54.0	60.4
Information and communications	96.0	3.7	44.9	40.6	43.2	47.8	54.0
Financing and insurance	197.9	7.6	45.4	40.6	44.7	49.4	52.6
Real estate activities (excl. estate management)	34.1	1.3	46.8	40.6	45.7	50.6	54.0
Professional and business services, scientific and technical activities	164.6	6.3	45.7	40.6	44.4	48.2	54.0
Cleaning services	52.2	2.0	51.3	48.0	48.0	57.0	60.2
Community, social and personal services (excl. v and vi)	409.7	15.7	46.1	42.0	45.0	48.9	54.2
Others	*	*	*	*	*	*	*
V. Occupation							
(A) Higher-skilled occupations	1 072.4	41.1	46.1	40.6	44.7	49.4	54.3
Managers and administrators	291.7	11.2	46.6	40.6	45.7	49.8	54.9
Professionals	183.5	7.0	44.9	40.6	44.3	47.8	54.0
Associate professionals	597.1	22.9	46.3	40.6	44.7	49.4	54.5
(B) Lower-skilled occupations	1 538.1	58.9	51.1	44.3	48.5	57.0	64.6
Clerks	462.3	17.7	45.4	40.6	44.3	48.0	54.0
Service workers and shop sales workers	385.5	14.8	53.8	48.0	54.0	60.0	66.0
Craft and related workers	204.7	7.8	51.6	48.0	49.9	55.9	61.7
Plant and machine operators and assemblers	116.5	4.5	52.7	44.8	54.0	60.0	65.1
Elementary workers	369.1	14.1	54.4	48.0	54.0	60.2	72.0
VI. By establishment size							
Large enterprises	1 440.6	55.2	49.6	42.5	48.0	54.0	63.5
SMEs	1 170.0	44.8	48.3	42.5	47.5	54.0	60.0

Note: * Figures are not released owing to relatively large sampling error.

Sources: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.
Aug-Oct 2011 General Household Survey, Census & Statistics Department.

Table A4.10: Number of employees by estimated total weekly working hours

No. of employees '000

	Total	Weekly working hours																		
		≤20	>20-30	>30-35	>35-40	>40-41	>41-42	>42-43	>43-44	>44-45	>45-46	>46-47	>47-48	>48-49	>49-50	>50-55	>55-60	>60-65	>65-70	>70
All employees	2 807.0	90.2	79.1	38.3	220.4	270.2	71.4	106.5	72.3	235.2	183.7	64.1	55.3	276.1	116.6	402.2	150.2	201.8	88.6	84.7
I. Gender																				
Male	1 464.5	33.6	24.9	13.2	108.0	129.1	31.1	48.7	29.9	102.5	83.0	30.6	23.7	160.0	61.4	234.4	98.2	126.8	66.5	58.8
Female	1 342.5	56.6	54.3	25.1	112.4	141.1	40.3	57.8	42.4	132.7	100.7	33.5	31.6	116.1	55.2	167.7	52.0	75.0	22.1	26.0
II. Age group																				
15-19	24.4	7.8	2.7	1.1	1.2	*	0.8	*	*	0.6	*	*	*	1.3	*	3.0	1.1	1.7	0.8	*
20-29	572.8	22.6	10.4	4.7	43.8	76.3	17.7	20.5	16.9	59.4	39.4	16.3	14.2	44.4	25.9	80.6	29.9	34.3	7.8	7.9
30-39	777.4	14.1	14.4	9.3	64.1	94.5	21.2	33.4	22.6	87.7	59.9	19.9	17.6	67.0	35.6	107.4	33.4	49.0	16.0	10.4
40-49	770.3	19.5	25.7	10.2	73.5	62.7	18.4	32.8	20.5	51.4	44.7	15.3	13.2	80.0	30.8	115.0	40.5	58.5	34.2	23.5
50-59	531.7	20.0	19.3	10.1	30.3	31.3	10.7	15.1	10.2	29.1	34.3	10.0	8.2	66.1	21.2	78.9	36.0	46.8	23.2	31.0
≥60	130.3	6.2	6.7	2.9	7.4	*	2.7	*	*	7.0	*	*	*	17.3	*	17.4	9.2	11.6	6.6	*
III. Educational attainment																				
Primary and below	366.2	17.4	20.4	8.7	13.0	5.2	4.5	8.9	3.9	6.1	22.0	4.2	4.4	56.4	7.3	58.6	29.0	44.2	21.4	30.6
Lower secondary (S1 to 3)	403.2	13.5	18.6	7.7	14.6	12.1	10.2	5.5	4.3	12.0	13.0	4.9	4.4	54.9	11.4	79.6	29.4	52.4	23.0	31.7
Upper secondary (S4 to 7)	1 133.6	39.5	27.3	13.0	84.8	94.7	32.3	50.2	27.6	112.4	60.4	28.6	25.7	117.2	51.6	169.2	61.1	83.2	37.1	17.7
Tertiary education	903.9	19.7	12.9	8.9	107.9	158.2	24.4	42.0	36.5	104.8	88.3	26.4	20.8	47.5	46.2	94.8	30.6	21.9	7.2	4.8
IV. Sector																				
(A) Long-working-hours sectors	766.8	35.6	28.4	14.7	31.1	18.3	17.6	28.2	9.9	22.8	21.8	9.8	6.9	68.5	18.7	135.5	52.4	119.8	65.8	61.1
i Retail	262.0	12.6	13.1	7.5	5.2	13.0	9.9	5.6	6.0	10.8	11.8	5.2	4.1	24.4	6.9	53.3	14.2	37.4	9.7	11.2
ii Estate management and security	139.5	1.7	*	*	0.8	3.2	1.5	5.8	2.0	3.7	2.7	1.3	0.8	17.1	4.9	15.4	5.6	10.9	26.4	34.9
iii Restaurants	214.4	13.3	11.9	3.5	5.9	1.0	4.7	4.4	0.6	1.6	3.8	1.6	0.6	17.0	4.8	47.4	16.9	50.9	19.0	5.4
iv Land transport	126.5	7.5	1.5	3.3	18.2	1.0	1.1	11.6	0.9	5.9	1.7	1.1	1.2	7.8	1.6	16.3	14.3	18.0	6.4	7.0
v Elderly homes	18.7	*	*	*	*	*	*	*	*	*	*	*	*	*	*	2.0	0.7	2.0	*	*
vi Laundry and dry cleaning services	5.7	*	0.7	*	*	*	*	*	*	*	*	*	*	*	*	1.0	0.7	0.6	*	*
(B) Other sectors	2 040.2	54.6	50.7	23.7	189.3	251.9	53.9	78.3	62.4	212.4	161.9	54.3	48.4	207.5	98.0	266.6	97.7	82.0	22.8	23.7
Manufacturing	113.9	2.2	4.8	0.5	5.7	5.4	0.7	4.5	1.4	13.9	6.7	1.9	3.4	22.1	4.1	18.5	8.4	6.1	2.0	1.5
Construction	238.2	2.8	3.6	4.3	13.1	7.8	5.7	6.9	1.0	11.7	2.7	3.4	4.4	48.0	13.9	48.0	23.1	23.2	5.4	9.3
Wholesale, import and export trade	475.6	8.5	7.8	2.2	42.8	80.1	18.7	22.8	20.2	74.9	35.8	15.6	12.8	26.6	27.0	51.2	13.9	9.3	3.2	2.3
Hotels	38.7	*	*	*	0.7	*	*	0.7	*	*	0.7	*	*	13.6	1.2	14.9	0.7	3.3	*	*
Other transportation, storage, postal and courier services	122.4	1.6	1.8	*	12.7	7.4	3.7	*	3.7	10.1	6.2	4.9	3.8	9.2	8.1	19.7	10.7	5.8	3.0	3.9
Information and communications	98.0	1.4	*	*	14.2	25.2	2.8	2.8	5.6	6.4	10.1	2.6	2.6	4.9	2.4	9.3	3.4	1.7	1.6	*
Financing and insurance	202.2	1.5	2.6	*	14.0	57.8	4.8	9.4	5.6	8.3	27.7	6.9	4.8	4.7	*	23.1	8.9	4.6	1.1	0.8
Real estate activities (excl. estate management)	36.1	1.6	*	*	4.4	4.2	0.8	1.7	2.0	3.1	1.6	1.3	0.8	4.4	0.8	5.8	1.3	0.9	0.8	*
Professional and business services, scientific and technical activities	170.5	3.9	1.8	*	18.8	32.3	6.2	7.7	7.6	12.0	20.0	6.8	4.0	9.7	6.4	20.1	*	3.8	1.4	1.5
Cleaning services	64.2	4.4	6.5	1.2	2.6	*	*	3.9	*	1.0	3.2	0.5	*	16.5	0.9	8.0	3.2	9.0	1.4	1.2
Community, social and personal services (excl. v and vi)	463.6	26.3	20.8	14.1	56.0	31.1	9.8	11.8	14.8	70.0	43.3	9.9	11.2	45.9	17.7	46.0	17.7	12.9	2.4	2.0
Others	17.0	*	*	*	4.4	*	*	*	*	*	3.8	*	*	1.8	*	2.0	*	1.6	*	*
V. Occupation																				
(A) Higher-skilled occupations	1 110.4	20.5	14.9	10.0	117.0	176.1	30.3	50.7	40.6	127.5	97.7	33.1	29.0	69.6	56.3	139.3	44.5	31.4	12.6	9.3
Managers and administrators	296.6	3.5	1.1	1.1	25.4	49.9	8.2	11.1	10.9	25.0	31.8	11.0	7.7	18.5	20.2	42.1	15.0	8.9	2.9	2.2
Professionals	190.6	4.4	2.6	4.0	32.3	32.7	4.8	6.2	6.2	23.3	18.9	4.5	5.2	5.7	8.0	18.8	6.5	3.9	1.1	1.5
Associate professionals	623.2	12.5	11.1	4.9	59.3	93.5	17.3	33.4	23.5	79.2	47.1	17.7	16.1	45.3	28.1	78.4	22.9	18.6	8.6	5.6
(B) Lower-skilled occupations	1 696.6	69.8	64.3	28.4	103.3	94.1	41.2	55.8	31.7	107.7	86.0	30.9	26.3	206.5	60.3	262.9	105.7	170.4	76.0	75.4
Clerks	494.9	16.7	13.1	4.0	47.3	69.1	24.4	26.6	19.3	77.1	31.9	16.6	14.3	29.2	29.1	49.6	12.7	10.6	2.1	1.3
Service workers and shop sales workers	449.2	28.4	22.7	12.4	14.5	6.9	6.5	9.4	5.6	8.0	23.8	5.2	3.1	54.1	10.5	85.7	27.3	81.4	26.6	17.0
Craft and related workers	212.5	2.5	*	3.7	10.6	6.0	3.3	5.2	*	9.1	6.4	3.2	2.5	48.1	9.9	38.8	22.7	22.2	4.8	8.0
Plant and machine operators and assemblers	118.9	1.2	*	0.8	17.0	2.6	1.0	4.6	*	3.7	2.7	1.8	1.1	12.7	2.0	21.2	13.8	17.3	6.5	8.0
Elementary workers	421.0	20.9	24.0	7.5	13.8	9.5	5.9	10.1	4.8	9.8	21.2	4.1	5.4	62.3	8.8	67.6	29.2	38.9	36.0	41.2
VI. By establishment size																				
Large enterprises	1 525.0	39.5	33.6	17.2	119.7	162.2	32.7	57.7	37.0	111.0	109.9	32.2	23.4	138.7	65.7	219.3	84.6	113.2	61.4	65.8
SMEs	1 282.0	50.7	45.5	21.1	100.6	108.0	38.7	48.8	35.3	124.2	73.8	31.8	31.9	137.4	50.9	182.8	65.5	88.6	27.2	19.0

Note: * Figures are not released owing to relatively large sampling error.

Sources: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.
Aug-Oct 2011 General Household Survey, Census & Statistics Department.

Table A4.11: Socio-economic characteristics of employees with long-working-hours

	Employees		
	Number '000	% Share in total	% Share in the respective groups (full-time)
All employees	725.4	100.0	27.8
I. Gender			
Male	472.8	65.2	33.9
Female	252.6	34.8	20.8
II. Age group			
15-19	5.5	0.8	44.5
20-29	117.6	16.2	21.9
30-39	157.8	21.7	21.3
40-49	218.3	30.1	30.4
50-59	176.7	24.4	36.4
≥60	49.4	6.8	42.6
III. Educational attainment			
Primary and below	162.2	22.4	50.5
Lower secondary (S1 to 3)	189.3	26.1	52.1
Upper secondary (S4 to 7)	283.5	39.1	26.9
Tertiary education	90.3	12.4	10.4
IV. Sector			
(A) Long-working-hours sectors	388.8	53.6	56.5
i Retail	104.5	14.4	45.7
ii Estate management and security	88.0	12.1	64.3
iii Restaurants	127.1	17.5	68.7
iv Land transport	56.4	7.8	49.1
v Elderly homes	10.0	1.4	55.6
vi Laundry and dry cleaning services	2.8	0.4	61.6
(B) Other sectors	336.6	46.4	17.5
Manufacturing	26.6	3.7	25.0
Construction	90.2	12.4	39.6
Wholesale, import and export trade	41.7	5.7	9.1
Hotels	12.3	1.7	32.0
Other transportation, storage, postal and courier services	32.6	4.5	27.2
Information and communications	10.0	1.4	10.4
Financing and insurance	17.4	2.4	8.8
Real estate activities (excl. estate management)	6.1	0.8	17.9
Professional and business services, scientific and technical activities	19.6	2.7	11.9
Cleaning services	19.5	2.7	37.3
Community, social and personal services (excl. v and vi)	57.8	8.0	14.1
Others	2.8	0.4	17.0
V. Occupation			
(A) Higher-skilled occupations	140.6	19.4	13.1
Managers and administrators	40.9	5.6	14.0
Professionals	19.1	2.6	10.4
Associate professionals	80.5	11.1	13.5
(B) Lower-skilled occupations	584.8	80.6	38.0
Clerks	50.2	6.9	10.8
Service workers and shop sales workers	208.3	28.7	54.0
Craft and related workers	81.4	11.2	39.8
Plant and machine operators and assemblers	58.5	8.1	50.2
Elementary workers	186.5	25.7	50.5
VI. By establishment size			
Large enterprises	429.5	59.2	29.8
SMEs	295.9	40.8	25.3

Sources: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.
Aug-Oct 2011 General Household Survey, Census & Statistics Department.

Table A4.12: Detailed coverage of economic sectors

	Coverage in terms of Hong Kong Standard Industrial Classification Version 2.0* (HSIC V2.0)
(A) Long-working-hours sectors	
i Retail	47
ii Estate management and security	6822, 80-81 (excl. 812)
iii Restaurants	56
iv Land transport	49
v Elderly homes	873
vi Laundry and dry cleaning services	9601
(B) Other sectors	
Manufacturing	B, C
Construction	F
Wholesale, import and export trade	45-46
Hotels	55
Other transportation, storage, postal and courier services	50-53
Information and communications	J
Financing and insurance	K
Real estate activities (excl. estate management)	68 (excl. 6822)
Professional and business services, scientific and technical activities	M, 77-79, 82
Cleaning services	812
Community, social and personal services (excl. v and vi)	O-U (excl. 873 and 9601)
Others	D-E

Note: (*) The Hong Kong Standard Industrial Classification Version 2.0 (HSIC V2.0) is modelled on the International Standard Industrial Classification of All Economic Activities Revision 4 (ISIC Rev. 4), which was released by the United Nations Statistics Division in August 2008 and is the latest international statistical standard for industrial classification. HSIC V2.0 has been used progressively in different surveys by Census and Statistics Department (C&SD) since 2009 as a standard framework for classifying business establishments into industry classes as well as for compilation, analysis and dissemination of statistics by industry. A full index of HSIC V2.0 industry codes and titles are available from the publication entitled Hong Kong Standard Industrial Classification (HSIC) Version 2.0, which can be downloaded free of charge from the website of C&SD (www.censtatd.gov.hk).

Chart A4.1: Estimated total weekly working hours distribution of selected sectors

Chart A1.1 Retail

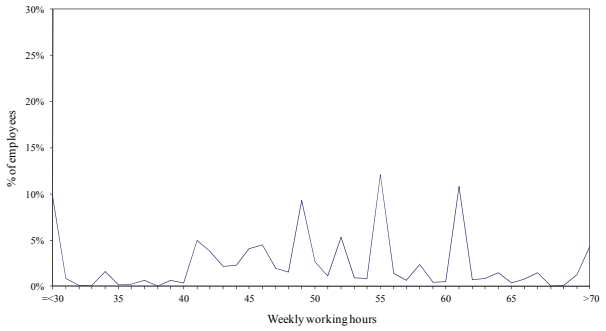


Chart A1.2 Estate management and security

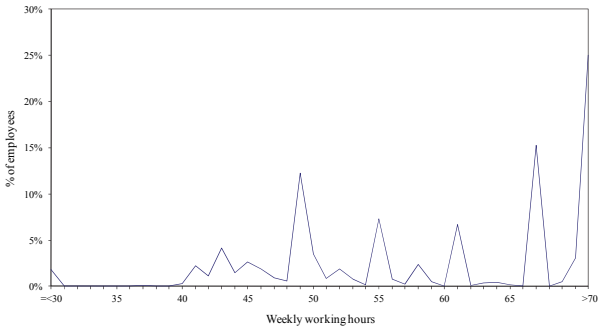


Chart A1.3 Restaurants

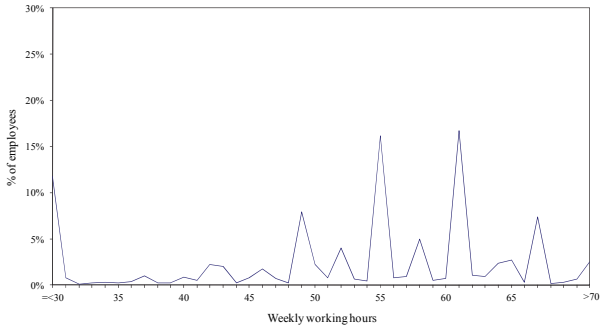


Chart A1.4 Land transport

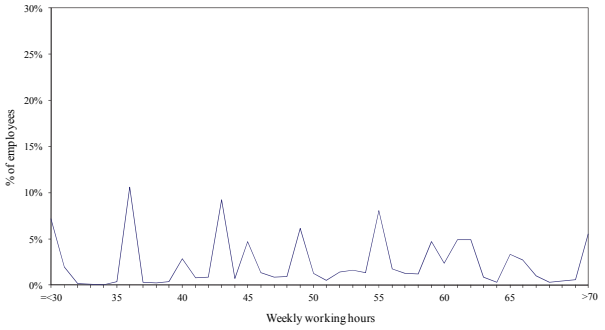


Chart A1.5 Manufacturing

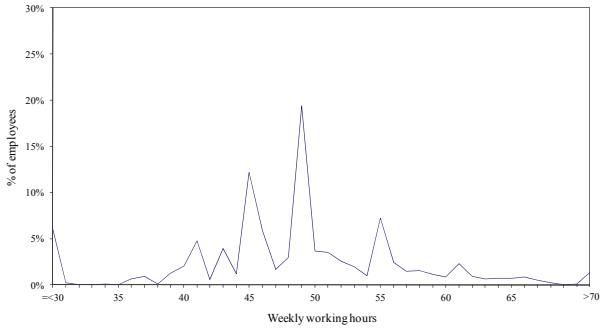


Chart A1.6 Construction

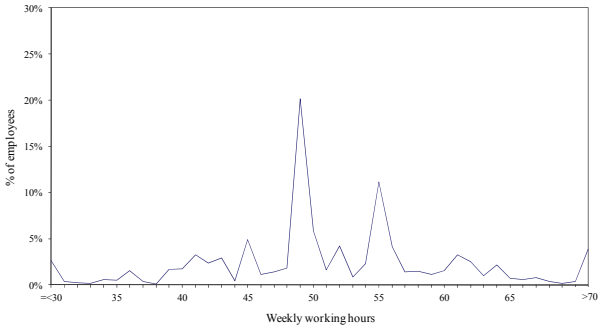


Chart A1.7 Wholesale, import and export trade

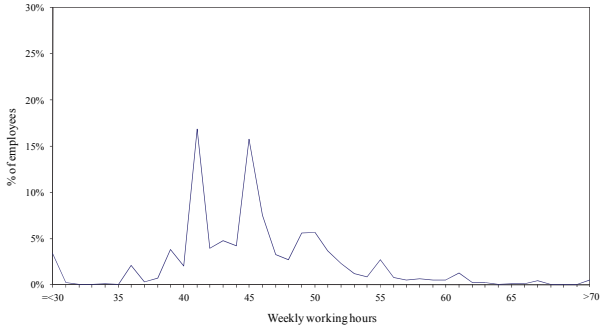


Chart A1.8 Other transportation, storage, postal and courier services

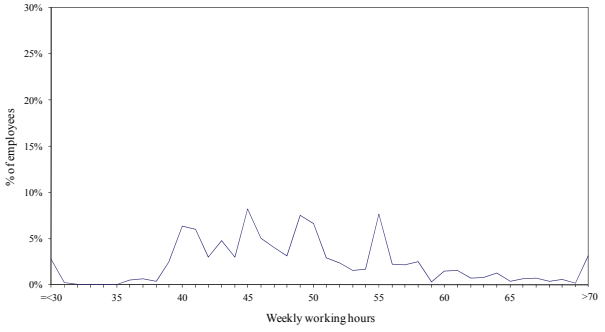


Chart A1.9 Information and communications

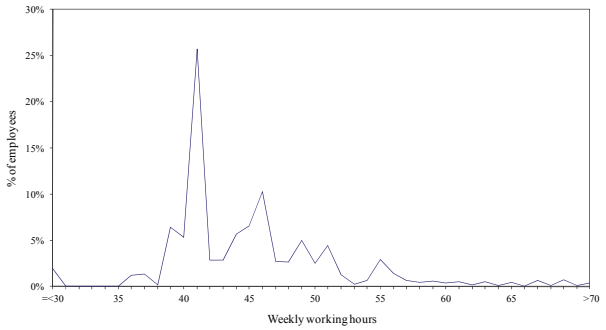


Chart A1.10 Financing and insurance

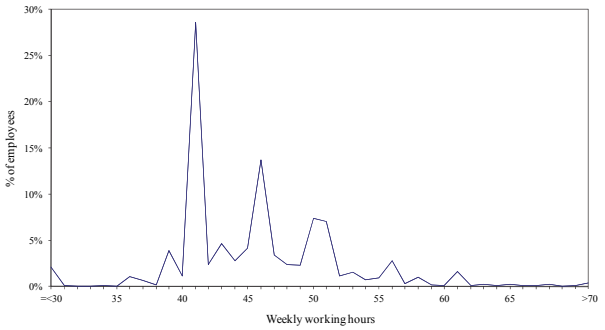


Chart A1.11 Real estate activities (excl. estate management)

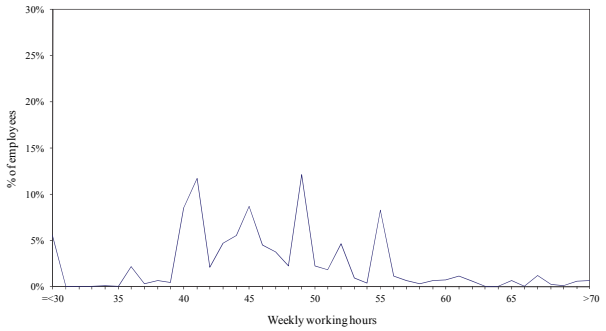


Chart A1.12 Professional and business services, scientific and technical activities

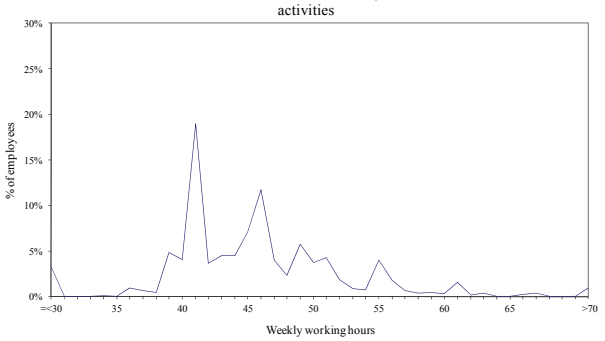


Chart A1.13 Cleaning services

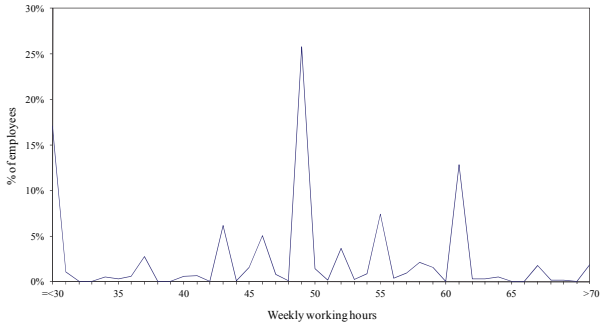


Chart A1.14 Community, social and personal services (excl. elderly homes, laundry and dry cleaning services)

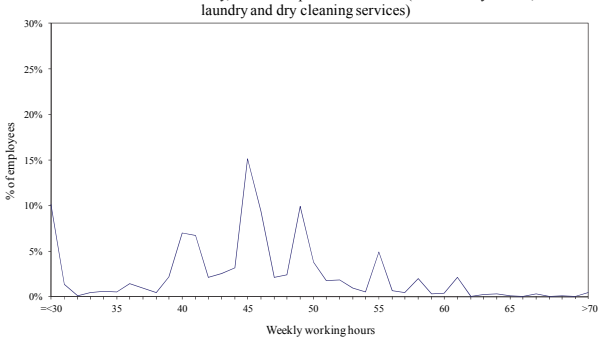
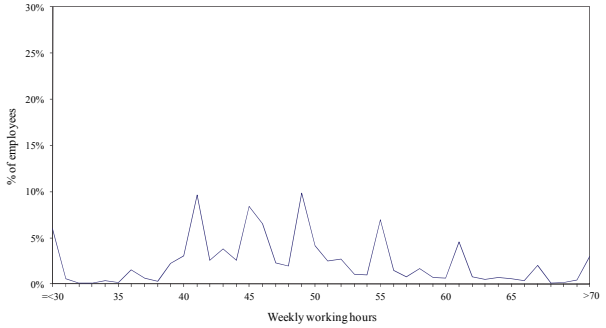


Chart A1.15 All sectors



Notes: Working hours distributions for the sectors “Elderly homes”, “Laundry and dry cleaning services”, “Hotels” and “Others” are not released owing to relatively large sampling error.
Some of the estimates shown in the charts above are based on a small number of observations and hence are rather crude.

Sources: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.
Aug-Oct 2011 General Household Survey, Census & Statistics Department.

Chart A4.2: Estimated total weekly working hours distribution by occupation

Chart A2.1 Higher-skilled occupations

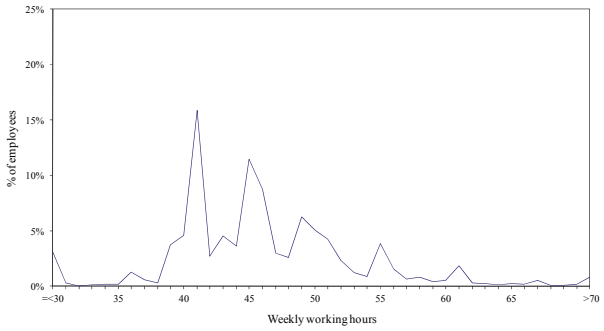


Chart A2.2 Managers and administrators

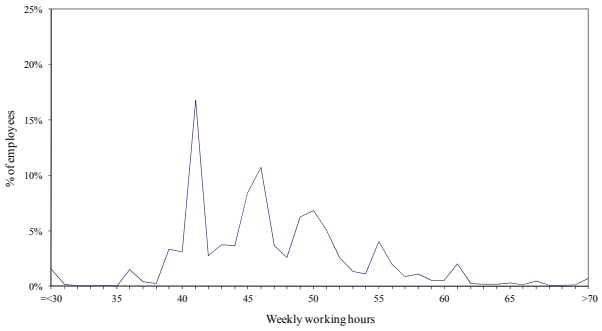


Chart A2.3 Professionals

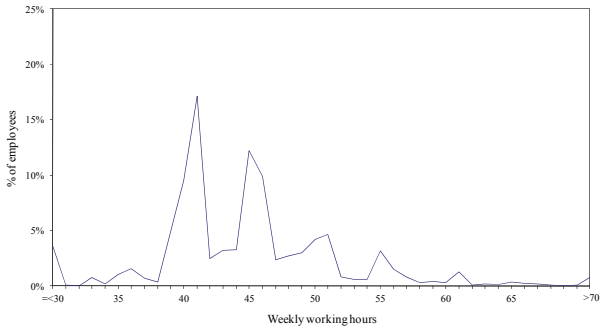


Chart A2.4 Associate professionals

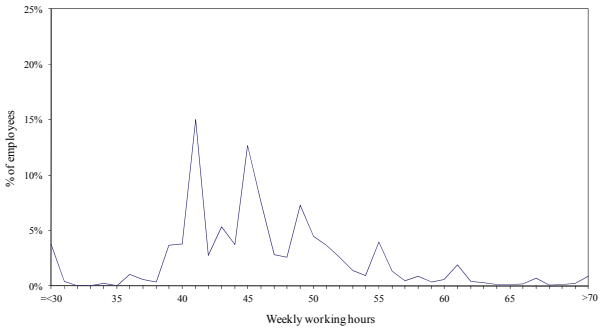


Chart A2.5 Lower-skilled occupations

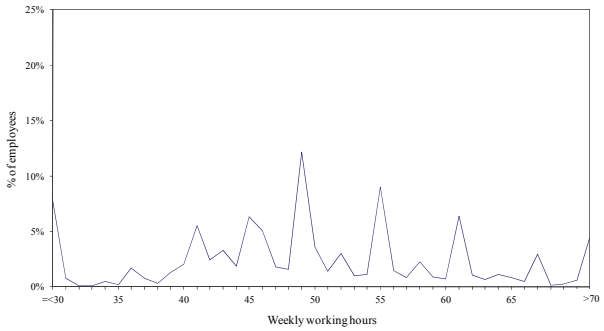


Chart A2.6 Clerks

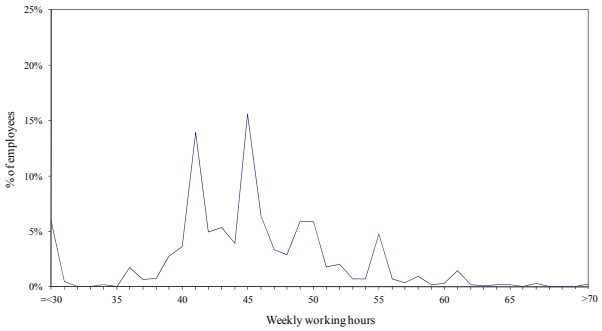


Chart A2.7 Service workers and shop sales workers

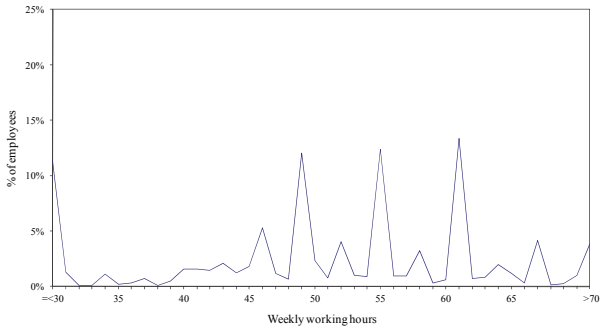


Chart A2.8 Craft and related workers

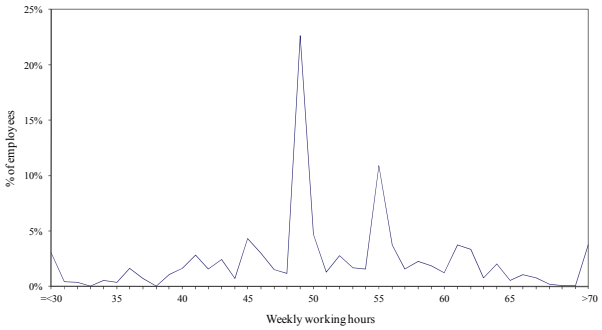


Chart A2.9 Plant and machine operators and assemblers

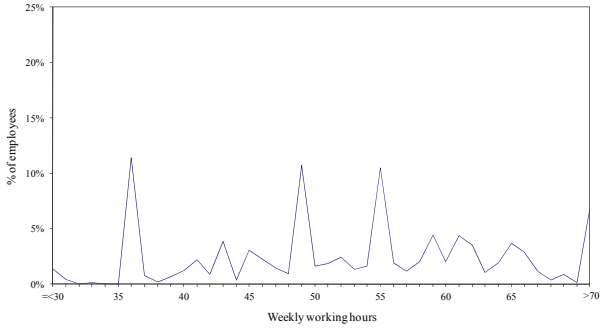
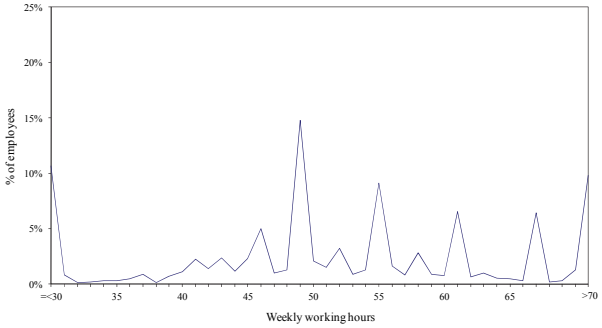


Chart A2.10 Elementary workers



Note: Some of the estimates shown in the charts above are based on a small number of observations and hence are rather crude.

Sources: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.
Aug-Oct 2011 General Household Survey, Census & Statistics Department.

Appendix 5

Methodology of Cost Impact Assessment

A5.1 There is currently no general statutory regulation in Hong Kong regarding the number of working hours and the minimum overtime pay rate. In the absence of previous experience, a broad-brush approach can only be adopted for any cost impact assessment related to SWH implementation in estimating the number of affected employees, the increase in wages to the affected employees and the additional wage bill to employers under some plausible assumptions.

Estimation of Affected Employees and Corresponding Increases in Wages and Total Wage Bill

A5.2 As no single survey regarding total working hours of employees (including both compensated and uncompensated hours of work) is currently available, data from the Annual Earnings and Hours Survey (AEHS) and General Household Survey (GHS) are combined for conducting the cost impact assessment of SWH (please see **Appendix 3** for details).

A5.3 Such cost impact assessment includes the estimation of the number of affected employees under different testing scenarios, with selected SWH thresholds, statutory minimum overtime pay rates and exemption criteria based on employees' occupations.

A5.4 Affected employees refer to employees with estimated total weekly working hours higher than a chosen SWH threshold. In general, the lower the SWH threshold, the higher would be the proportion of affected employees. The socio-economic characteristics of the affected employees are then analysed.

A5.5 All working hours of affected employees above the SWH threshold will be treated as overtime work, which would be entitled to compensation according to the statutory minimum overtime pay rate or the overtime pay rate of the enterprise, whichever is higher. The corresponding increases in wages and total wage bill are then estimated by the amount of additional overtime pay to affected employees. The higher the

statutory minimum overtime pay rate, the higher would be the cost impact.

Key Assumptions

A5.6 The assessment is entirely static by holding all other things equal besides the additional overtime pay due to policy implementation. It is also assumed that the resultant cost impact is fully borne by employers, without consequential adjustment to the production processes and/or output prices.

A5.7 While the additional increase in total wage bill is expressed on a yearly basis, the number of total estimated working hours (including all overtime hours) is assumed to remain unchanged throughout the year, which implies that seasonal fluctuations or holidays have not been taken into account.

Limitations

A5.8 The policy design and parameters of SWH are all unknown, which make the assessment nearly impossible to produce any dynamic result.

A5.9 The micro-dataset for the cost impact assessment is produced based on statistical methods by merging two different surveys, instead of relying solely on the results of a single survey. Such approach will affect the cost impact estimates, and larger estimation errors should be expected.

A5.10 One key assumption underlying the cost impact assessment is that the resultant increase in labour cost would be fully borne by employers. This is a rather restrictive assumption adopted for the purpose of the broad-brush assessment only. Assessments for irregular working hours and employment benefits which could affect the estimated working hours patterns of employees are also not available.

A5.11 The assessment is purely static in nature and only indicates the first-round effects of the implementation of SWH. Taking into account the dynamic interactions in the labour market, part of the increase in labour costs would trigger a series of adjustments as discussed in the report. The cost effect would be shifted, plausibly in part or in whole, onto employees and/or consumers through adjustments in wages and/or output prices.

Appendix 6

Statistical Appendix of Cost Impact Assessment

Table A6.1 Socio-economic characteristics of affected employees (Scenario C.i – without any exemption)

Table A6.2 Socio-economic characteristics of affected employees (Scenario C.ii – with exemption of managers, administrators and professionals)

Table A6.3 Socio-economic characteristics of affected employees (Scenario C.iii – with exemption of managers, administrators, professionals and associate professionals)

Table A6.4 Proportion of affected employees in terms of full-time employees by socio-economic attribute (Scenario C.i – without any exemption)

Table A6.5 Proportion of affected employees in terms of full-time employees by socio-economic attribute (Scenario C.ii – with exemption of managers, administrators and professionals)

Table A6.6 Proportion of affected employees in terms of full-time employees by socio-economic attribute (Scenario C.iii – with exemption of managers, administrators, professionals and associate professionals)

Table A6.7 Cost impact assessment by SWH threshold, overtime pay rate and exemption criteria

Table A6.8 Cost impact assessment by SWH threshold, overtime pay rate and exemption criteria – SMEs only

Table A6.9 Estimated increases in wages of affected employees by sector (Scenario B.i – overtime pay rate = 1.0)

Table A6.10 Estimated increases in wages of affected employees by sector (Scenario B.ii – overtime pay rate = 1.25)

Table A6.11 Estimated increases in wages of affected employees by sector (Scenario B.iii – overtime pay rate = 1.5)

Table A6.12 Estimated increases in wages of affected employees by occupation (Scenario B.i – overtime pay rate = 1.0)

Table A6.13 Estimated increases in wages of affected employees by occupation (Scenario B.ii – overtime pay rate = 1.25)

Table A6.14 Estimated increases in wages of affected employees by occupation (Scenario B.iii – overtime pay rate = 1.5)

Table A6.1: Socio-economic characteristics of affected employees (Scenario C.i – without any exemption)

	Employees with weekly working hours over the specified levels					
	40 hrs		44 hrs		48 hrs	
	No. '000	% Share	No. '000	% Share	No. '000	% Share
All employees	2 378.9	100.0	1 858.5	100.0	1 320.2	100.0
I. Gender						
Male	1 284.7	54.0	1 045.9	56.3	806.1	61.1
Female	1 094.2	46.0	812.6	43.7	514.0	38.9
II. Age group						
15-19	11.6	0.5	9.9	0.5	8.6	0.6
20-29	491.3	20.7	359.9	19.4	230.7	17.5
30-39	675.6	28.4	503.8	27.1	318.8	24.1
40-49	641.3	27.0	507.0	27.3	382.5	29.0
50-59	452.0	19.0	384.7	20.7	303.1	23.0
≥60	107.1	4.5	93.1	5.0	76.5	5.8
III. Educational attainment						
Primary and below	306.7	12.9	284.2	15.3	247.6	18.8
Lower secondary (S1 to 3)	348.8	14.7	316.8	17.0	282.5	21.4
Upper secondary (S4 to 7)	968.9	40.7	764.1	41.1	537.1	40.7
Tertiary education	754.5	31.7	493.3	26.5	253.0	19.2
IV. Sector						
(A) Long-working-hours sectors	657.0	27.6	583.1	31.4	521.8	39.5
i Retail	223.5	9.4	189.0	10.2	157.1	11.9
ii Estate management and security	136.1	5.7	123.6	6.7	115.1	8.7
iii Restaurants	179.8	7.6	169.0	9.1	161.4	12.2
iv Land transport	96.0	4.0	81.4	4.4	71.5	5.4
v Elderly homes	17.6	0.7	16.1	0.9	13.3	1.0
vi Laundry and dry cleaning services	4.1	0.2	3.9	0.2	3.3	0.3
(B) Other sectors	1 721.8	72.4	1 275.4	68.6	798.4	60.5
Manufacturing	100.6	4.2	88.6	4.8	62.7	4.8
Construction	214.4	9.0	193.0	10.4	170.8	12.9
Wholesale, import and export trade	414.3	17.4	272.5	14.7	133.4	10.1
Hotels	37.8	1.6	36.4	2.0	34.5	2.6
Other transportation, storage, postal and courier services	105.9	4.4	85.3	4.6	60.3	4.6
Information and communications	81.8	3.4	45.5	2.4	23.8	1.8
Financing and insurance	183.5	7.7	106.0	5.7	58.2	4.4
Real estate activities (excl. estate management)	29.7	1.2	21.0	1.1	14.1	1.1
Professional and business services, scientific and technical activities	145.8	6.1	91.9	4.9	49.0	3.7
Cleaning services	49.5	2.1	45.0	2.4	40.2	3.0
Community, social and personal services (excl. v and vi)	346.4	14.6	279.0	15.0	144.6	11.0
Others	12.3	0.5	11.3	0.6	6.8	0.5
V. Occupation						
(A) Higher-skilled occupations	948.0	39.9	650.4	35.0	363.0	27.5
Managers and administrators	265.4	11.2	185.2	10.0	109.8	8.3
Professionals	147.3	6.2	97.5	5.2	45.6	3.5
Associate professionals	535.3	22.5	367.7	19.8	207.7	15.7
(B) Lower-skilled occupations	1 430.8	60.1	1 208.1	65.0	957.1	72.5
Clerks	413.7	17.4	274.4	14.8	134.5	10.2
Service workers and shop sales workers	371.1	15.6	342.6	18.4	302.6	22.9
Craft and related workers	191.7	8.1	175.7	9.5	154.4	11.7
Plant and machine operators and assemblers	99.5	4.2	90.8	4.9	81.5	6.2
Elementary workers	354.8	14.9	324.6	17.5	284.0	21.5
VI. By establishment size						
Large enterprises	1 314.9	55.3	1 025.2	55.2	748.8	56.7
SMEs	1 064.0	44.7	833.2	44.8	571.4	43.3

Sources: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.
Aug-Oct 2011 General Household Survey, Census & Statistics Department.

Table A6.2: Socio-economic characteristics of affected employees (Scenario C.ii – with exemption of managers, administrators and professionals)

	Employees with weekly working hours over the specified levels					
	40 hrs		44 hrs		48 hrs	
	No. '000	% Share	No. '000	% Share	No. '000	% Share
All employees	1 966.1	100.0	1 575.7	100.0	1 164.8	100.0
I. Gender						
Male	1 023.1	52.0	864.3	54.8	701.8	60.3
Female	943.1	48.0	711.5	45.2	463.0	39.7
II. Age group						
15-19	11.6	0.6	9.9	0.6	8.6	0.7
20-29	438.6	22.3	325.0	20.6	215.0	18.5
30-39	542.3	27.6	415.4	26.4	273.1	23.4
40-49	511.6	26.0	419.4	26.6	330.4	28.4
50-59	377.5	19.2	331.0	21.0	271.1	23.3
≥60	84.6	4.3	75.2	4.8	66.6	5.7
III. Educational attainment						
Primary and below	302.8	15.4	281.0	17.8	245.3	21.1
Lower secondary (S1 to 3)	341.4	17.4	310.0	19.7	277.7	23.8
Upper secondary (S4 to 7)	876.4	44.6	691.7	43.9	491.5	42.2
Tertiary education	445.5	22.7	293.1	18.6	150.3	12.9
IV. Sector						
(A) Long-working-hours sectors	617.8	31.4	551.0	35.0	497.4	42.7
i Retail	205.6	10.5	174.7	11.1	145.8	12.5
ii Estate management and security	129.2	6.6	119.2	7.6	112.6	9.7
iii Restaurants	175.9	8.9	165.3	10.5	157.8	13.5
iv Land transport	86.3	4.4	72.4	4.6	65.1	5.6
v Elderly homes	16.8	0.9	15.5	1.0	12.9	1.1
vi Laundry and dry cleaning services	3.9	0.2	3.8	0.2	3.3	0.3
(B) Other sectors	1 348.3	68.6	1 024.8	65.0	667.4	57.3
Manufacturing	84.1	4.3	74.7	4.7	53.5	4.6
Construction	196.6	10.0	178.8	11.3	161.1	13.8
Wholesale, import and export trade	321.3	16.3	211.6	13.4	102.5	8.8
Hotels	33.4	1.7	32.4	2.1	30.9	2.7
Other transportation, storage, postal and courier services	88.4	4.5	72.7	4.6	52.9	4.5
Information and communications	47.5	2.4	26.9	1.7	14.4	1.2
Financing and insurance	109.2	5.6	57.0	3.6	31.1	2.7
Real estate activities (excl. estate management)	22.5	1.1	15.5	1.0	11.0	0.9
Professional and business services, scientific and technical activities	104.6	5.3	65.8	4.2	35.6	3.1
Cleaning services	48.8	2.5	44.4	2.8	39.8	3.4
Community, social and personal services (excl. v and vi)	281.1	14.3	234.8	14.9	128.3	11.0
Others	10.8	0.6	10.0	0.6	6.2	0.5
V. Occupation						
(A) Higher-skilled occupations	535.3	27.2	367.7	23.3	207.7	17.8
Managers and administrators	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Professionals	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Associate professionals	535.3	27.2	367.7	23.3	207.7	17.8
(B) Lower-skilled occupations	1 430.8	72.8	1 208.1	76.7	957.1	82.2
Clerks	413.7	21.0	274.4	17.4	134.5	11.5
Service workers and shop sales workers	371.1	18.9	342.6	21.7	302.6	26.0
Craft and related workers	191.7	9.8	175.7	11.2	154.4	13.3
Plant and machine operators and assemblers	99.5	5.1	90.8	5.8	81.5	7.0
Elementary workers	354.8	18.0	324.6	20.6	284.0	24.4
VI. By establishment size						
Large enterprises	1 088.1	55.3	874.8	55.5	667.0	57.3
SMEs	878.0	44.7	700.9	44.5	497.8	42.7

Note: N.A. Not applicable.

Sources: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.
Aug-Oct 2011 General Household Survey, Census & Statistics Department.

Table A6.3: Socio-economic characteristics of affected employees (Scenario C.iii – with exemption of managers, administrators, professionals and associate professionals)

	Employees with weekly working hours over the specified levels					
	40 hrs		44 hrs		48 hrs	
	No. '000	% Share	No. '000	% Share	No. '000	% Share
All employees	1 430.8	100.0	1 208.1	100.0	957.1	100.0
I. Gender						
Male	746.5	52.2	667.3	55.2	580.8	60.7
Female	684.4	47.8	540.8	44.8	376.3	39.3
II. Age group						
15-19	11.2	0.8	9.5	0.8	8.3	0.9
20-29	286.6	20.0	226.7	18.8	163.2	17.0
30-39	350.5	24.5	287.8	23.8	207.4	21.7
40-49	386.7	27.0	327.7	27.1	275.0	28.7
50-59	321.2	22.5	289.4	24.0	242.4	25.3
≥60	74.7	5.2	66.9	5.5	60.9	6.4
III. Educational attainment						
Primary and below	296.6	20.7	275.5	22.8	240.6	25.1
Lower secondary (S1 to 3)	325.0	22.7	294.9	24.4	265.7	27.8
Upper secondary (S4 to 7)	660.7	46.2	536.5	44.4	393.7	41.1
Tertiary education	148.4	10.4	101.3	8.4	57.1	6.0
IV. Sector						
(A) Long-working-hours sectors	558.3	39.0	505.6	41.9	462.2	48.3
i Retail	182.9	12.8	157.1	13.0	133.7	14.0
ii Estate management and security	114.7	8.0	108.4	9.0	103.8	10.8
iii Restaurants	165.2	11.5	154.9	12.8	148.2	15.5
iv Land transport	76.6	5.4	67.7	5.6	61.8	6.5
v Elderly homes	15.3	1.1	14.1	1.2	11.8	1.2
vi Laundry and dry cleaning services	3.7	0.3	3.5	0.3	3.0	0.3
(B) Other sectors	872.5	61.0	702.5	58.1	494.9	51.7
Manufacturing	58.2	4.1	53.4	4.4	40.1	4.2
Construction	160.1	11.2	147.7	12.2	135.4	14.1
Wholesale, import and export trade	200.2	14.0	137.9	11.4	67.1	7.0
Hotels	28.5	2.0	27.8	2.3	27.0	2.8
Other transportation, storage, postal and courier services	74.2	5.2	62.1	5.1	45.9	4.8
Information and communications	17.4	1.2	11.7	1.0	7.2	0.7
Financing and insurance	45.1	3.2	23.4	1.9	11.9	1.2
Real estate activities (excl. estate management)	5.3	0.4	3.2	0.3	2.0	0.2
Professional and business services, scientific and technical activities	49.2	3.4	29.6	2.4	16.1	1.7
Cleaning services	47.3	3.3	43.1	3.6	38.7	4.0
Community, social and personal services (excl. v and vi)	180.1	12.6	156.1	12.9	98.8	10.3
Others	6.8	0.5	6.4	0.5	4.8	0.5
V. Occupation						
(A) Higher-skilled occupations	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Managers and administrators	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Professionals	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Associate professionals	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
(B) Lower-skilled occupations	1 430.8	100.0	1 208.1	100.0	957.1	100.0
Clerks	413.7	28.9	274.4	22.7	134.5	14.1
Service workers and shop sales workers	371.1	25.9	342.6	28.4	302.6	31.6
Craft and related workers	191.7	13.4	175.7	14.5	154.4	16.1
Plant and machine operators and assemblers	99.5	7.0	90.8	7.5	81.5	8.5
Elementary workers	354.8	24.8	324.6	26.9	284.0	29.7
VI. By establishment size						
Large enterprises	781.0	54.6	669.5	55.4	550.8	57.5
SMEs	649.9	45.4	538.5	44.6	406.3	42.5

Note: N.A. Not applicable.

Sources: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.
Aug-Oct 2011 General Household Survey, Census & Statistics Department.

Table A6.4: Proportion of affected employees in terms of full-time employees by socio-economic attribute (Scenario C.i – without any exemption)

	Employees with weekly working hours over the specified levels					
	40 hrs		44 hrs		48 hrs	
	No. '000	% in the respective groups	No. '000	% in the respective groups	No. '000	% in the respective groups
All employees	2 378.9	91.1	1 858.5	71.2	1 320.2	50.6
I. Gender						
Male	1 284.7	92.0	1 045.9	74.9	806.1	57.7
Female	1 094.2	90.1	812.6	66.9	514.0	42.3
II. Age group						
15-19	11.6	93.3	9.9	79.6	8.6	69.0
20-29	491.3	91.6	359.9	67.1	230.7	43.0
30-39	675.6	91.1	503.8	68.0	318.8	43.0
40-49	641.3	89.2	507.0	70.5	382.5	53.2
50-59	452.0	93.0	384.7	79.2	303.1	62.4
≥60	107.1	92.4	93.1	80.3	76.5	66.0
III. Educational attainment						
Primary and below	306.7	95.4	284.2	88.4	247.6	77.0
Lower secondary (S1 to 3)	348.8	95.9	316.8	87.1	282.5	77.7
Upper secondary (S4 to 7)	968.9	91.8	764.1	72.4	537.1	50.9
Tertiary education	754.5	86.7	493.3	56.7	253.0	29.1
IV. Sector						
(A) Long-working-hours sectors	657.0	95.5	583.1	84.7	521.8	75.8
i Retail	223.5	97.6	189.0	82.6	157.1	68.6
ii Estate management and security	136.1	99.5	123.6	90.4	115.1	84.2
iii Restaurants	179.8	97.1	169.0	91.3	161.4	87.2
iv Land transport	96.0	83.6	81.4	70.9	71.5	62.3
v Elderly homes	17.6	97.5	16.1	89.2	13.3	74.0
vi Laundry and dry cleaning services	4.1	91.6	3.9	87.5	3.3	74.6
(B) Other sectors	1 721.8	89.6	1 275.4	66.3	798.4	41.5
Manufacturing	100.6	94.6	88.6	83.3	62.7	59.0
Construction	214.4	94.1	193.0	84.7	170.8	74.9
Wholesale, import and export trade	414.3	90.4	272.5	59.4	133.4	29.1
Hotels	37.8	98.3	36.4	94.7	34.5	89.7
Other transportation, storage, postal and courier services	105.9	88.3	85.3	71.1	60.3	50.3
Information and communications	81.8	85.2	45.5	47.3	23.8	24.8
Financing and insurance	183.5	92.7	106.0	53.5	58.2	29.4
Real estate activities (excl. estate management)	29.7	87.1	21.0	61.6	14.1	41.3
Professional and business services, scientific and technical activities	145.8	88.5	91.9	55.8	49.0	29.8
Cleaning services	49.5	94.8	45.0	86.3	40.2	77.0
Community, social and personal services (excl. v and vi)	346.4	84.5	279.0	68.1	144.6	35.3
Others	12.3	73.8	11.3	67.8	6.8	40.6
V. Occupation						
(A) Higher-skilled occupations	948.0	88.4	650.4	60.6	363.0	33.9
Managers and administrators	265.4	91.0	185.2	63.5	109.8	37.6
Professionals	147.3	80.3	97.5	53.1	45.6	24.8
Associate professionals	535.3	89.6	367.7	61.6	207.7	34.8
(B) Lower-skilled occupations	1 430.8	93.0	1 208.1	78.5	957.1	62.2
Clerks	413.7	89.5	274.4	59.3	134.5	29.1
Service workers and shop sales workers	371.1	96.2	342.6	88.9	302.6	78.5
Craft and related workers	191.7	93.7	175.7	85.9	154.4	75.5
Plant and machine operators and assemblers	99.5	85.4	90.8	77.9	81.5	69.9
Elementary workers	354.8	96.1	324.6	87.9	284.0	77.0
VI. By establishment size						
Large enterprises	1 314.9	91.3	1 025.2	71.2	748.8	52.0
SMEs	1 064.0	90.9	833.2	71.2	571.4	48.8

Note: Percentages in the above table refer to the proportions of employees expressed as % of full-time employees in the respective groups.

Sources: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.
Aug-Oct 2011 General Household Survey, Census & Statistics Department.

Table A6.5: Proportion of affected employees in terms of full-time employees by socio-economic attribute (Scenario C.ii – with exemption of managers, administrators and professionals)

	Employees with weekly working hours over the specified levels					
	40 hrs		44 hrs		48 hrs	
	No. '000	% in the respective groups	No. '000	% in the respective groups	No. '000	% in the respective groups
All employees	1 966.1	75.3	1 575.7	60.4	1 164.8	44.6
I. Gender						
Male	1 023.1	73.3	864.3	61.9	701.8	50.3
Female	943.1	77.6	711.5	58.6	463.0	38.1
II. Age group						
15-19	11.6	93.3	9.9	79.5	8.6	69.0
20-29	438.6	81.8	325.0	60.6	215.0	40.1
30-39	542.3	73.2	415.4	56.0	273.1	36.8
40-49	511.6	71.2	419.4	58.4	330.4	46.0
50-59	377.5	77.7	331.0	68.1	271.1	55.8
≥60	84.6	73.0	75.2	64.9	66.6	57.4
III. Educational attainment						
Primary and below	302.8	94.2	281.0	87.4	245.3	76.3
Lower secondary (S1 to 3)	341.4	93.9	310.0	85.2	277.7	76.4
Upper secondary (S4 to 7)	876.4	83.0	691.7	65.5	491.5	46.6
Tertiary education	445.5	51.2	293.1	33.7	150.3	17.3
IV. Sector						
(A) Long-working-hours sectors	617.8	89.8	551.0	80.1	497.4	72.3
i Retail	205.6	89.8	174.7	76.3	145.8	63.7
ii Estate management and security	129.2	94.5	119.2	87.2	112.6	82.3
iii Restaurants	175.9	95.0	165.3	89.3	157.8	85.2
iv Land transport	86.3	75.1	72.4	63.1	65.1	56.7
v Elderly homes	16.8	93.4	15.5	85.9	12.9	71.7
vi Laundry and dry cleaning services	3.9	87.8	3.8	83.7	3.3	73.4
(B) Other sectors	1 348.3	70.1	1 024.8	53.3	667.4	34.7
Manufacturing	84.1	79.1	74.7	70.3	53.5	50.3
Construction	196.6	86.2	178.8	78.5	161.1	70.6
Wholesale, import and export trade	321.3	70.1	211.6	46.2	102.5	22.4
Hotels	33.4	87.0	32.4	84.4	30.9	80.5
Other transportation, storage, postal and courier services	88.4	73.7	72.7	60.7	52.9	44.1
Information and communications	47.5	49.5	26.9	28.0	14.4	15.0
Financing and insurance	109.2	55.2	57.0	28.8	31.1	15.7
Real estate activities (excl. estate management)	22.5	65.8	15.5	45.5	11.0	32.3
Professional and business services, scientific and technical activities	104.6	63.5	65.8	40.0	35.6	21.6
Cleaning services	48.8	93.5	44.4	85.2	39.8	76.2
Community, social and personal services (excl. v and vi)	281.1	68.6	234.8	57.3	128.3	31.3
Others	10.8	64.9	10.0	59.9	6.2	37.3
V. Occupation						
(A) Higher-skilled occupations	535.3	49.9	367.7	34.3	207.7	19.4
Managers and administrators	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Professionals	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Associate professionals	535.3	89.6	367.7	61.6	207.7	34.8
(B) Lower-skilled occupations	1 430.8	93.0	1 208.1	78.5	957.1	62.2
Clerks	413.7	89.5	274.4	59.3	134.5	29.1
Service workers and shop sales workers	371.1	96.2	342.6	88.9	302.6	78.5
Craft and related workers	191.7	93.7	175.7	85.9	154.4	75.5
Plant and machine operators and assemblers	99.5	85.4	90.8	77.9	81.5	69.9
Elementary workers	354.8	96.1	324.6	87.9	284.0	77.0
VI. By establishment size						
Large enterprises	1 088.1	75.5	874.8	60.7	667.0	46.3
SMEs	878.0	75.0	700.9	59.9	497.8	42.6

Note: Percentages in the above table refer to the proportions of employees expressed as % of full-time employees in the respective groups.

Sources: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.
Aug-Oct 2011 General Household Survey, Census & Statistics Department.

Table A6.6: Proportion of affected employees in terms of full-time employees by socio-economic attribute (Scenario C.iii – with exemption of managers, administrators, professionals and associate professionals)

	Employees with weekly working hours over the specified levels					
	40 hrs		44 hrs		48 hrs	
	No. '000	% in the respective groups	No. '000	% in the respective groups	No. '000	% in the respective groups
All employees	1 430.8	54.8	1 208.1	46.3	957.1	36.7
I. Gender						
Male	746.5	53.5	667.3	47.8	580.8	41.6
Female	684.4	56.3	540.8	44.5	376.3	31.0
II. Age group						
15-19	11.2	89.9	9.5	76.9	8.3	66.7
20-29	286.6	53.4	226.7	42.3	163.2	30.4
30-39	350.5	47.3	287.8	38.8	207.4	28.0
40-49	386.7	53.8	327.7	45.6	275.0	38.3
50-59	321.2	66.1	289.4	59.6	242.4	49.9
≥60	74.7	64.4	66.9	57.7	60.9	52.5
III. Educational attainment						
Primary and below	296.6	92.3	275.5	85.7	240.6	74.9
Lower secondary (S1 to 3)	325.0	89.4	294.9	81.1	265.7	73.1
Upper secondary (S4 to 7)	660.7	62.6	536.5	50.8	393.7	37.3
Tertiary education	148.4	17.1	101.3	11.6	57.1	6.6
IV. Sector						
(A) Long-working-hours sectors	558.3	81.1	505.6	73.5	462.2	67.2
i Retail	182.9	79.9	157.1	68.6	133.7	58.4
ii Estate management and security	114.7	83.8	108.4	79.2	103.8	75.9
iii Restaurants	165.2	89.2	154.9	83.7	148.2	80.0
iv Land transport	76.6	66.7	67.7	58.9	61.8	53.8
v Elderly homes	15.3	84.9	14.1	78.3	11.8	65.2
vi Laundry and dry cleaning services	3.7	81.5	3.5	77.4	3.0	67.3
(B) Other sectors	872.5	45.4	702.5	36.5	494.9	25.7
Manufacturing	58.2	54.8	53.4	50.2	40.1	37.7
Construction	160.1	70.2	147.7	64.8	135.4	59.4
Wholesale, import and export trade	200.2	43.7	137.9	30.1	67.1	14.6
Hotels	28.5	74.1	27.8	72.4	27.0	70.3
Other transportation, storage, postal and courier services	74.2	61.9	62.1	51.8	45.9	38.3
Information and communications	17.4	18.1	11.7	12.2	7.2	7.5
Financing and insurance	45.1	22.8	23.4	11.8	11.9	6.0
Real estate activities (excl. estate management)	5.3	15.6	3.2	9.3	2.0	5.8
Professional and business services, scientific and technical activities	49.2	29.9	29.6	18.0	16.1	9.8
Cleaning services	47.3	90.6	43.1	82.7	38.7	74.2
Community, social and personal services (excl. v and vi)	180.1	44.0	156.1	38.1	98.8	24.1
Others	6.8	40.9	6.4	38.0	4.8	28.5
V. Occupation						
(A) Higher-skilled occupations	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Managers and administrators	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Professionals	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Associate professionals	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
(B) Lower-skilled occupations	1 430.8	93.0	1 208.1	78.5	957.1	62.2
Clerks	413.7	89.5	274.4	59.3	134.5	29.1
Service workers and shop sales workers	371.1	96.2	342.6	88.9	302.6	78.5
Craft and related workers	191.7	93.7	175.7	85.9	154.4	75.5
Plant and machine operators and assemblers	99.5	85.4	90.8	77.9	81.5	69.9
Elementary workers	354.8	96.1	324.6	87.9	284.0	77.0
VI. By establishment size						
Large enterprises	781.0	54.2	669.5	46.5	550.8	38.2
SMEs	649.9	55.5	538.5	46.0	406.3	34.7

Note: Percentages in the above table refer to the proportions of employees expressed as % of full-time employees in the respective groups.

Sources: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.
Aug-Oct 2011 General Household Survey, Census & Statistics Department.

Table A6.7: Cost impact assessment by SWH threshold, overtime pay rate and exemption criteria

(A) Without any exemption

		40 hrs		44 hrs		48 hrs	
Affected employees		('000)	(%)	('000)	(%)	('000)	(%)
		2 378.9	91.1	1 858.5	71.2	1 320.2	50.6
Estimated increase in total wage bill		($Mn)	(%)	($Mn)	(%)	($Mn)	(%)
Statutory overtime pay rate	**1.0**	17,267.1	3.6	12,993.6	2.7	8,038.9	1.7
	1.25	36,135.6	7.5	24,402.0	5.0	14,517.8	3.0
	1.5	55,220.8	11.4	36,017.9	7.4	21,183.3	4.4

(B) With exemption of managers, administrators and professionals

		40 hrs		44 hrs		48 hrs	
Affected employees		('000)	(%)	('000)	(%)	('000)	(%)
		1 966.1	75.3	1 575.7	60.4	1 164.8	44.6
Estimated increase in total wage bill		($Mn)	(%)	($Mn)	(%)	($Mn)	(%)
Statutory overtime pay rate	**1.0**	6,227.4	1.3	4,884.7	1.0	3,173.8	0.7
	1.25	19,340.6	4.0	13,129.9	2.7	8,054.6	1.7
	1.5	32,664.4	6.7	21,577.9	4.5	13,118.5	2.7

(C) With exemption of managers, administrators, professionals and associate professionals

		40 hrs		44 hrs		48 hrs	
Affected employees		('000)	(%)	('000)	(%)	('000)	(%)
		1 430.8	54.8	1 208.1	46.3	957.1	36.7
Estimated increase in total wage bill		($Mn)	(%)	($Mn)	(%)	($Mn)	(%)
Statutory overtime pay rate	**1.0**	1,900.7	0.4	1,588.5	0.3	1,133.2	0.2
	1.25	11,098.0	2.3	7,769.5	1.6	4,992.1	1.0
	1.5	20,485.7	4.2	14,135.2	2.9	9,018.8	1.9

Notes: Percentages in the above table refer to the proportions of affected employees expressed as % of all full-time employees.

All working hours of affected employees above the SWH threshold will be treated as overtime, which would be entitled to compensation according to the statutory overtime pay rate or the overtime pay rate of the enterprise, whichever is higher. The corresponding % increase in wage bill is then estimated by the amount of additional overtime pay over total wage bill of all employees. The wages are computed in accordance with the definition of wages as set out in the Minimum Wage Ordinance.

Sources: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.

Aug-Oct 2011 General Household Survey, Census & Statistics Department.

Table A6.8: Cost impact assessment by SWH threshold, overtime pay rate and exemption criteria – SMEs only

(A) Without any exemption

		40 hrs		44 hrs		48 hrs	
Affected employees		('000)	(%)	('000)	(%)	('000)	(%)
		1 064.0	90.9	833.2	71.2	571.4	48.8
Estimated increase in total wage bill in SMEs		($Mn)	(%)	($Mn)	(%)	($Mn)	(%)
Statutory overtime pay rate	**1.0**	5,883.6	3.0	4,551.9	2.3	2,802.0	1.4
	1.25	13,618.4	6.9	9,136.1	4.6	5,286.3	2.7
	1.5	21,402.7	10.8	13,767.9	6.9	7,813.0	3.9

(B) With exemption of managers, administrators and professionals

		40 hrs		44 hrs		48 hrs	
Affected employees		('000)	(%)	('000)	(%)	('000)	(%)
		878.0	75.0	700.9	59.9	497.8	42.6
Estimated increase in total wage bill in SMEs		($Mn)	(%)	($Mn)	(%)	($Mn)	(%)
Statutory overtime pay rate	**1.0**	2,486.2	1.3	1,997.7	1.0	1,292.3	0.7
	1.25	8,038.0	4.0	5,415.0	2.7	3,206.0	1.6
	1.5	13,637.8	6.9	8,878.7	4.5	5,161.3	2.6

(C) With exemption of managers, administrators, professionals and associate professionals

		40 hrs		44 hrs		48 hrs	
Affected employees		('000)	(%)	('000)	(%)	('000)	(%)
		649.9	55.5	538.5	46.0	406.3	34.7
Estimated increase in total wage bill in SMEs		($Mn)	(%)	($Mn)	(%)	($Mn)	(%)
Statutory overtime pay rate	**1.0**	867.8	0.4	719.0	0.4	489.2	0.2
	1.25	4,869.0	2.5	3,306.4	1.7	2,014.4	1.0
	1.5	8,908.2	4.5	5,930.5	3.0	3,572.8	1.8

Notes: Percentages in the above table refer to the proportions of affected employees in SMEs expressed as % of all full-time employees in SMEs.

All working hours of affected employees above the SWH threshold will be treated as overtime, which would be entitled to compensation according to the statutory overtime pay rate or the overtime pay rate of the enterprise, whichever is higher. The corresponding % increase in wage bill is then estimated by the amount of additional overtime pay over total wage bill of all employees in SMEs. The wages are computed in accordance with the definition of wages as set out in the Minimum Wage Ordinance.

Sources: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.

Aug-Oct 2011 General Household Survey, Census & Statistics Department.

Table A6.9: Estimated increases in wages of affected employees by sector (Scenario B.i – overtime pay rate = 1.0)

(A) Without any exemption

	Employees with weekly working hours over the specified levels					
	40 hrs		44 hrs		48 hrs	
	($Mn)	(%)	($Mn)	(%)	($Mn)	(%)
All employees	17,267.1	4.1	12,993.6	4.0	8,038.9	3.7
(A) Long-working-hours sectors	1,276.9	1.5	1,084.7	1.5	805.2	1.2
i Retail	452.5	1.6	384.6	1.6	276.5	1.4
ii Estate management and security	261.3	1.7	203.8	1.5	119.9	1.0
iii Restaurants	161.9	0.8	156.8	0.8	146.1	0.8
iv Land transport	386.9	2.2	327.0	2.3	252.1	2.0
v Elderly homes	11.4	0.5	9.7	0.5	7.9	0.5
vi Laundry and dry cleaning services	2.9	0.7	2.9	0.7	2.8	0.8
(B) Other sectors	15,990.1	4.7	11,908.9	4.8	7,233.7	4.8
Manufacturing	476.9	3.2	439.4	3.3	314.5	3.3
Construction	635.7	1.6	520.1	1.5	382.7	1.2
Wholesale, import and export trade	3,319.5	4.6	2,532.3	5.4	1,487.6	6.4
Hotels	114.8	2.2	105.6	2.1	89.4	1.9
Other transportation, storage, postal and courier services	621.2	3.6	469.6	3.4	297.8	3.0
Information and communications	972.1	5.9	645.5	7.1	358.4	7.5
Financing and insurance	5,171.6	9.1	3,789.6	10.4	2,298.3	10.7
Real estate activities (excl. estate management)	397.2	5.9	289.9	5.7	191.9	5.6
Professional and business services, scientific and technical activities	2,179.6	7.3	1,572.8	8.0	924.4	8.8
Cleaning services	27.8	0.7	24.4	0.6	19.7	0.6
Community, social and personal services (excl. v and vi)	1,916.5	2.6	1,398.9	2.4	782.9	3.1
Others	157.3	5.6	120.8	4.7	86.1	5.7

(B) With exemption of managers, administrators and professionals

	Employees with weekly working hours over the specified levels					
	40 hrs		44 hrs		48 hrs	
	($Mn)	(%)	($Mn)	(%)	($Mn)	(%)
All employees	6,227.4	2.2	4,884.7	2.2	3,173.8	2.0
(A) Long-working-hours sectors	806.2	1.1	697.1	1.0	542.6	0.9
i Retail	277.5	1.1	239.0	1.1	178.6	1.0
ii Estate management and security	103.9	0.8	86.2	0.7	54.7	0.5
iii Restaurants	132.7	0.7	128.9	0.7	121.0	0.6
iv Land transport	278.2	1.8	230.5	1.9	177.7	1.6
v Elderly homes	11.0	0.6	9.7	0.6	7.9	0.5
vi Laundry and dry cleaning services	2.9	0.7	2.8	0.7	2.8	0.8
(B) Other sectors	5,421.2	2.7	4,187.6	2.7	2,631.2	2.6
Manufacturing	207.4	1.9	189.0	1.9	133.5	1.9
Construction	350.8	1.1	326.3	1.1	290.9	1.1
Wholesale, import and export trade	1,553.2	3.6	1,188.5	4.2	687.2	4.9
Hotels	59.9	1.4	55.5	1.4	52.1	1.4
Other transportation, storage, postal and courier services	266.8	2.3	217.9	2.2	147.9	2.0
Information and communications	259.4	3.9	165.5	4.1	87.7	3.9
Financing and insurance	858.5	4.7	604.9	5.8	337.4	6.1
Real estate activities (excl. estate management)	206.6	5.0	170.5	5.4	128.9	5.5
Professional and business services, scientific and technical activities	765.2	5.0	537.9	5.3	290.3	5.2
Cleaning services	20.3	0.5	18.8	0.5	16.1	0.5
Community, social and personal services (excl. v and vi)	786.8	1.6	637.7	1.6	397.5	2.0
Others	86.2	4.1	75.1	3.9	61.7	4.9

(C) With exemption of managers, administrators, professionals and associate professionals

	Employees with weekly working hours over the specified levels					
	40 hrs		44 hrs		48 hrs	
	($Mn)	(%)	($Mn)	(%)	($Mn)	(%)
All employees	1,900.7	1.1	1,588.5	1.1	1,133.2	0.9
(A) Long-working-hours sectors	451.4	0.7	417.3	0.7	350.1	0.6
i Retail	169.8	0.8	152.3	0.8	122.7	0.8
ii Estate management and security	36.7	0.3	29.8	0.3	16.1	0.2
iii Restaurants	90.4	0.5	88.8	0.5	84.4	0.5
iv Land transport	144.7	1.2	137.8	1.3	119.3	1.2
v Elderly homes	6.9	0.4	5.8	0.4	4.8	0.4
vi Laundry and dry cleaning services	2.9	0.8	2.8	0.8	2.8	0.9
(B) Other sectors	1,449.3	1.3	1,171.2	1.3	783.1	1.2
Manufacturing	137.0	2.0	134.1	2.1	99.5	2.0
Construction	166.1	0.6	161.5	0.7	154.6	0.7
Wholesale, import and export trade	483.5	2.1	370.1	2.3	211.2	2.7
Hotels	29.5	0.9	28.6	0.9	27.0	0.8
Other transportation, storage, postal and courier services	164.2	1.8	135.7	1.7	91.0	1.5
Information and communications	40.1	2.0	31.5	2.2	20.1	2.1
Financing and insurance	163.7	3.1	106.2	3.5	54.1	3.2
Real estate activities (excl. estate management)	18.5	2.9	12.9	3.3	6.2	2.6
Professional and business services, scientific and technical activities	107.9	2.0	74.6	2.2	38.4	2.1
Cleaning services	8.3	0.2	7.9	0.2	6.2	0.2
Community, social and personal services (excl. v and vi)	122.3	0.6	101.1	0.6	69.5	0.6
Others	8.1	0.7	7.0	0.6	5.2	0.6

Note: All working hours of affected employees above the SWH threshold will be treated as overtime, which would be entitled to compensation according to the statutory overtime pay rate or the overtime pay rate of the enterprise, whichever is higher. The corresponding % increase in wages in a year is then estimated by the amount of additional overtime pay over total wages of affected employees. The wages are computed in accordance with the definition of wages as set out in the Minimum Wage Ordinance.

Sources: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.
Aug-Oct 2011 General Household Survey, Census & Statistics Department.

Table A6.10: Estimated increases in wages of affected employees by sector (Scenario B.ii – overtime pay rate = 1.25)

(A) Without any exemption

	Employees with weekly working hours over the specified levels					
	40 hrs		44 hrs		48 hrs	
	($Mn)	(%)	($Mn)	(%)	($Mn)	(%)
All employees	36,135.6	8.5	24,402.0	7.6	14,517.8	6.7
(A) Long-working-hours sectors	6,720.1	7.8	5,056.2	6.8	3,552.9	5.4
i Retail	2,095.7	7.3	1,525.9	6.3	1,019.2	5.1
ii Estate management and security	1,382.3	8.9	1,068.1	7.8	765.0	6.2
iii Restaurants	1,688.6	8.0	1,317.5	6.5	962.4	5.0
iv Land transport	1,373.9	7.7	1,011.8	7.0	710.7	5.7
v Elderly homes	149.2	7.2	110.4	5.8	79.8	5.3
vi Laundry and dry cleaning services	30.3	7.0	22.5	5.4	15.9	4.4
(B) Other sectors	29,415.5	8.7	19,345.8	7.8	10,964.9	7.3
Manufacturing	1,177.6	7.9	856.3	6.5	525.8	5.4
Construction	2,656.3	6.8	1,842.8	5.3	1,109.3	3.6
Wholesale, import and export trade	5,770.7	8.0	3,750.1	8.1	2,051.0	8.8
Hotels	416.3	7.8	302.9	5.9	189.3	3.9
Other transportation, storage, postal and courier services	1,410.7	8.1	945.9	6.9	573.7	5.9
Information and communications	1,506.1	9.2	926.3	10.1	497.5	10.4
Financing and insurance	7,404.6	13.0	5,070.0	14.0	2,944.6	13.7
Real estate activities (excl. estate management)	686.4	10.3	451.8	8.9	268.0	7.8
Professional and business services, scientific and technical activities	3,340.3	11.3	2,215.9	11.3	1,261.2	12.0
Cleaning services	269.6	6.3	187.6	4.8	114.4	3.3
Community, social and personal services (excl. v and vi)	4,498.4	6.1	2,608.4	4.5	1,310.5	5.1
Others	278.7	10.0	187.8	7.4	119.5	7.9

(B) With exemption of managers, administrators and professionals

	Employees with weekly working hours over the specified levels					
	40 hrs		44 hrs		48 hrs	
	($Mn)	(%)	($Mn)	(%)	($Mn)	(%)
All employees	19,340.6	7.0	13,129.9	5.9	8,054.6	5.0
(A) Long-working-hours sectors	5,749.9	7.6	4,351.0	6.5	3,098.9	5.1
i Retail	1,698.9	7.0	1,236.8	5.9	835.6	4.8
ii Estate management and security	1,148.3	8.5	909.1	7.3	679.8	5.8
iii Restaurants	1,599.2	7.9	1,242.1	6.4	901.9	4.8
iv Land transport	1,133.7	7.4	835.6	6.9	589.3	5.4
v Elderly homes	140.5	7.4	105.3	6.0	76.6	5.3
vi Laundry and dry cleaning services	29.2	7.2	22.1	5.7	15.7	4.4
(B) Other sectors	13,590.8	6.8	8,778.9	5.6	4,955.8	5.0
Manufacturing	706.8	6.5	484.9	5.0	281.7	3.9
Construction	2,117.3	6.4	1,508.0	5.0	955.8	3.5
Wholesale, import and export trade	2,992.7	6.9	1,895.0	6.7	1,015.1	7.2
Hotels	295.2	7.1	210.0	5.2	130.0	3.4
Other transportation, storage, postal and courier services	829.2	7.1	575.3	5.9	367.6	4.9
Information and communications	481.1	7.2	279.4	6.9	143.0	6.4
Financing and insurance	1,422.6	7.8	890.9	8.6	456.3	8.2
Real estate activities (excl. estate management)	392.5	9.5	279.6	8.8	183.6	7.8
Professional and business services, scientific and technical activities	1,329.2	8.6	841.2	8.3	440.0	7.9
Cleaning services	254.6	6.2	177.6	4.7	108.7	3.2
Community, social and personal services (excl. v and vi)	2,593.3	5.4	1,510.7	3.7	785.4	4.0
Others	176.3	8.5	126.4	6.6	88.6	7.1

(C) With exemption of managers, administrators, professionals and associate professionals

	Employees with weekly working hours over the specified levels					
	40 hrs		44 hrs		48 hrs	
	($Mn)	(%)	($Mn)	(%)	($Mn)	(%)
All employees	11,098.0	6.4	7,769.5	5.2	4,992.1	4.1
(A) Long-working-hours sectors	4,881.1	7.5	3,738.0	6.3	2,693.8	4.9
i Retail	1,400.3	6.8	1,022.4	5.7	697.4	4.5
ii Estate management and security	986.9	8.6	793.2	7.3	607.6	5.8
iii Restaurants	1,443.3	7.8	1,118.7	6.3	809.5	4.7
iv Land transport	902.9	7.3	692.8	6.3	498.6	4.9
v Elderly homes	120.9	7.3	90.5	5.9	65.8	5.2
vi Laundry and dry cleaning services	26.8	7.4	20.5	5.9	14.9	4.8
(B) Other sectors	6,216.9	5.8	4,031.5	4.5	2,298.3	3.5
Manufacturing	479.2	6.9	348.0	5.4	214.6	4.2
Construction	1,603.1	6.1	1,136.7	4.7	713.6	3.1
Wholesale, import and export trade	1,258.6	5.5	748.4	4.7	384.7	4.8
Hotels	221.7	6.6	155.4	4.7	90.4	2.8
Other transportation, storage, postal and courier services	599.5	6.6	411.7	5.3	260.8	4.3
Information and communications	119.0	5.9	74.8	5.1	42.1	4.5
Financing and insurance	314.8	5.9	182.7	6.0	86.3	5.2
Real estate activities (excl. estate management)	42.5	6.7	26.0	6.7	13.6	5.7
Professional and business services, scientific and technical activities	275.4	5.1	154.8	4.6	70.2	3.8
Cleaning services	231.5	5.9	159.2	4.4	94.0	2.9
Community, social and personal services (excl. v and vi)	1,019.9	4.9	602.6	3.4	312.2	2.7
Others	51.8	4.4	31.0	2.8	15.7	1.7

Note: All working hours of affected employees above the SWH threshold will be treated as overtime, which would be entitled to compensation according to the statutory overtime pay rate or the overtime pay rate of the enterprise, whichever is higher. The corresponding % increase in wages in a year is then estimated by the amount of additional overtime pay over total wages of affected employees. The wages are computed in accordance with the definition of wages as set out in the Minimum Wage Ordinance.

Sources: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.
Aug-Oct 2011 General Household Survey, Census & Statistics Department.

Table A6.11: Estimated increases in wages of affected employees by sector (Scenario B.iii – overtime pay rate = 1.5)

(A) Without any exemption

	Employees with weekly working hours over the specified levels					
	40 hrs		44 hrs		48 hrs	
	($Mn)	(%)	($Mn)	(%)	($Mn)	(%)
All employees	55,220.8	13.0	36,017.9	11.2	21,183.3	9.8
(A) Long-working-hours sectors	12,212.2	14.3	9,076.1	12.1	6,347.6	9.6
i Retail	3,744.0	13.0	2,672.1	11.0	1,766.0	8.9
ii Estate management and security	2,504.6	16.1	1,933.5	14.1	1,411.2	11.4
iii Restaurants	3,216.6	15.3	2,479.3	12.3	1,779.9	9.2
iv Land transport	2,400.4	13.4	1,736.1	12.1	1,208.3	9.7
v Elderly homes	287.2	13.8	211.3	11.1	151.8	10.0
vi Laundry and dry cleaning services	59.3	13.7	43.8	10.5	30.5	8.4
(B) Other sectors	43,008.7	12.7	26,941.8	10.9	14,835.7	9.9
Manufacturing	1,897.9	12.8	1,291.9	9.8	753.3	7.8
Construction	4,747.5	12.1	3,235.5	9.3	1,903.7	6.2
Wholesale, import and export trade	8,242.2	11.5	4,986.1	10.7	2,629.9	11.2
Hotels	717.8	13.5	500.1	9.8	289.1	6.0
Other transportation, storage, postal and courier services	2,239.6	12.8	1,459.5	10.6	878.4	9.0
Information and communications	2,041.8	12.5	1,208.6	13.2	637.8	13.4
Financing and insurance	9,639.4	17.0	6,351.7	17.5	3,591.7	16.8
Real estate activities (excl. estate management)	975.9	14.6	614.2	12.1	344.4	10.1
Professional and business services, scientific and technical activities	4,507.7	15.2	2,863.8	14.6	1,601.2	15.2
Cleaning services	512.1	12.0	351.6	9.0	209.8	6.0
Community, social and personal services (excl. v and vi)	7,085.7	9.6	3,823.2	6.7	1,842.7	7.2
Others	400.9	14.3	255.7	10.0	153.7	10.2

(B) With exemption of managers, administrators and professionals

	Employees with weekly working hours over the specified levels					
	40 hrs		44 hrs		48 hrs	
	($Mn)	(%)	($Mn)	(%)	($Mn)	(%)
All employees	32,664.4	11.8	21,577.9	9.7	13,118.5	8.2
(A) Long-working-hours sectors	10,741.1	14.2	8,052.0	12.0	5,701.1	9.4
i Retail	3,124.3	12.9	2,238.4	10.7	1,495.9	8.6
ii Estate management and security	2,193.7	16.2	1,732.8	13.9	1,305.7	11.2
iii Restaurants	3,066.9	15.1	2,356.5	12.1	1,684.0	9.0
iv Land transport	2,028.7	13.2	1,480.2	12.3	1,039.9	9.5
v Elderly homes	270.1	14.2	201.1	11.5	145.4	10.1
vi Laundry and dry cleaning services	57.4	14.1	43.1	11.0	30.2	8.5
(B) Other sectors	21,923.3	10.9	13,525.9	8.7	7,417.4	7.4
Manufacturing	1,225.3	11.3	798.8	8.2	445.5	6.2
Construction	3,953.3	11.9	2,758.9	9.2	1,687.6	6.1
Wholesale, import and export trade	4,451.5	10.3	2,619.1	9.3	1,358.2	9.7
Hotels	530.5	12.8	364.4	9.1	207.9	5.4
Other transportation, storage, postal and courier services	1,430.8	12.3	970.0	9.9	616.0	8.3
Information and communications	704.4	10.5	394.6	9.8	199.3	9.0
Financing and insurance	1,988.4	10.9	1,178.2	11.4	575.9	10.4
Real estate activities (excl. estate management)	578.6	14.0	388.9	12.3	238.5	10.1
Professional and business services, scientific and technical activities	1,898.2	12.4	1,148.5	11.3	592.3	10.6
Cleaning services	489.7	12.0	337.2	8.9	202.1	5.9
Community, social and personal services (excl. v and vi)	4,405.4	9.2	2,388.9	5.9	1,177.8	6.0
Others	267.2	12.9	178.6	9.3	116.3	9.3

(C) With exemption of managers, administrators, professionals and associate professionals

	Employees with weekly working hours over the specified levels					
	40 hrs		44 hrs		48 hrs	
	($Mn)	(%)	($Mn)	(%)	($Mn)	(%)
All employees	20,485.7	11.8	14,135.2	9.5	9,018.8	7.5
(A) Long-working-hours sectors	9,356.6	14.4	7,104.2	11.9	5,081.8	9.3
i Retail	2,634.5	12.8	1,895.9	10.6	1,274.9	8.3
ii Estate management and security	1,937.9	16.9	1,557.5	14.3	1,199.9	11.5
iii Restaurants	2,797.3	15.0	2,149.7	12.1	1,535.6	8.9
iv Land transport	1,699.9	13.8	1,286.4	11.8	916.1	9.0
v Elderly homes	235.0	14.2	175.3	11.4	126.9	10.0
vi Laundry and dry cleaning services	52.1	14.4	39.4	11.4	28.3	9.1
(B) Other sectors	11,129.1	10.3	7,031.0	7.9	3,937.0	6.0
Manufacturing	836.1	12.0	575.6	9.0	341.2	6.7
Construction	3,104.2	11.7	2,175.9	8.9	1,334.9	5.9
Wholesale, import and export trade	2,051.3	8.9	1,143.0	7.2	572.8	7.2
Hotels	414.0	12.3	282.2	8.5	153.9	4.8
Other transportation, storage, postal and courier services	1,071.7	11.8	722.7	9.3	457.2	7.6
Information and communications	198.8	9.8	119.0	8.2	64.9	6.9
Financing and insurance	467.0	8.7	260.2	8.5	119.2	7.1
Real estate activities (excl. estate management)	66.4	10.5	39.1	10.1	20.9	8.8
Professional and business services, scientific and technical activities	445.5	8.2	237.0	7.1	103.2	5.6
Cleaning services	455.4	11.7	311.3	8.6	182.6	5.6
Community, social and personal services (excl. v and vi)	1,922.5	9.3	1,109.0	6.2	559.3	4.8
Others	96.3	8.1	55.9	5.0	27.0	2.9

Note: All working hours of affected employees above the SWH threshold will be treated as overtime, which would be entitled to compensation according to the statutory overtime pay rate or the overtime pay rate of the enterprise, whichever is higher. The corresponding % increase in wages in a year is then estimated by the amount of additional overtime pay over total wages of affected employees. The wages are computed in accordance with the definition of wages as set out in the Minimum Wage Ordinance.

Sources: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.
Aug-Oct 2011 General Household Survey, Census & Statistics Department.

Table A6.12: Estimated increases in wages of affected employees by occupation (Scenario B.i – overtime pay rate = 1.0)

(A) Without any exemption

	Employees with weekly working hours over the specified levels					
	40 hrs		44 hrs		48 hrs	
	($Mn)	(%)	($Mn)	(%)	($Mn)	(%)
All employees	17,267.1	4.1	12,993.6	4.0	8,038.9	3.7
(A) Higher-skilled occupations	15,366.4	6.1	11,405.1	6.5	6,905.7	7.3
Managers and administrators	7,610.6	7.9	5,729.0	8.6	3,507.1	8.9
Professionals	3,429.1	6.7	2,379.9	7.2	1,358.0	9.0
Associate professionals	4,326.7	4.2	3,296.2	4.4	2,040.6	5.1
(B) Lower-skilled occupations	1,900.7	1.1	1,588.5	1.1	1,133.2	0.9
Clerks	1,100.8	2.3	821.2	2.6	457.3	2.8
Service workers and shop sales workers	229.7	0.5	221.0	0.5	205.3	0.6
Craft and related workers	273.5	0.9	265.7	1.0	228.1	0.9
Plants and machine operators and assemblers	169.6	1.1	159.9	1.1	141.3	1.0
Elementary workers	127.1	0.4	120.6	0.4	101.1	0.3

(B) With exemption of managers, administrators and professionals

	Employees with weekly working hours over the specified levels					
	40 hrs		44 hrs		48 hrs	
	($Mn)	(%)	($Mn)	(%)	($Mn)	(%)
All employees	6,227.4	2.2	4,884.7	2.2	3,173.8	2.0
(A) Higher-skilled occupations	4,326.7	4.2	3,296.2	4.4	2,040.6	5.1
Managers and administrators	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Professionals	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Associate professionals	4,326.7	4.2	3,296.2	4.4	2,040.6	5.1
(B) Lower-skilled occupations	1,900.7	1.1	1,588.5	1.1	1,133.2	0.9
Clerks	1,100.8	2.3	821.2	2.6	457.3	2.8
Service workers and shop sales workers	229.7	0.5	221.0	0.5	205.3	0.6
Craft and related workers	273.5	0.9	265.7	1.0	228.1	0.9
Plants and machine operators and assemblers	169.6	1.1	159.9	1.1	141.3	1.0
Elementary workers	127.1	0.4	120.6	0.4	101.1	0.3

(C) With exemption of managers, administrators, professionals and associate professionals

	Employees with weekly working hours over the specified levels					
	40 hrs		44 hrs		48 hrs	
	($Mn)	(%)	($Mn)	(%)	($Mn)	(%)
All employees	1,900.7	1.1	1,588.5	1.1	1,133.2	0.9
(A) Higher-skilled occupations	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Managers and administrators	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Professionals	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Associate professionals	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
(B) Lower-skilled occupations	1,900.7	1.1	1,588.5	1.1	1,133.2	0.9
Clerks	1,100.8	2.3	821.2	2.6	457.3	2.8
Service workers and shop sales workers	229.7	0.5	221.0	0.5	205.3	0.6
Craft and related workers	273.5	0.9	265.7	1.0	228.1	0.9
Plants and machine operators and assemblers	169.6	1.1	159.9	1.1	141.3	1.0
Elementary workers	127.1	0.4	120.6	0.4	101.1	0.3

Notes: All working hours of affected employees above the SWH threshold will be treated as overtime, which would be entitled to compensation according to the statutory overtime pay rates or the overtime pay rate of the enterprise, whichever is higher. The corresponding % increase in wages in a year is then estimated by the amount of additional overtime pay over total wages of affected employees. The wages are computed in accordance with the definition of wages as set out in the Minimum Wage Ordinance.

N.A. Not applicable.

Sources: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.
Aug-Oct 2011 General Household Survey, Census & Statistics Department.

Table A6.13: Estimated increases in wages of affected employees by occupation (Scenario B.ii – overtime pay rate = 1.25)

(A) Without any exemption

	Employees with weekly working hours over the specified levels					
	40 hrs		44 hrs		48 hrs	
	($Mn)	(%)	($Mn)	(%)	($Mn)	(%)
All employees	36,135.6	8.5	24,402.0	7.6	14,517.8	6.7
(A) Higher-skilled occupations	25,037.6	9.9	16,632.5	9.6	9,525.8	10.1
Managers and administrators	11,555.8	11.9	7,959.8	11.9	4,640.1	11.7
Professionals	5,239.2	10.3	3,312.4	10.0	1,823.1	12.1
Associate professionals	8,242.6	7.9	5,360.3	7.2	3,062.6	7.6
(B) Lower-skilled occupations	11,098.0	6.4	7,769.5	5.2	4,992.1	4.1
Clerks	2,678.7	5.6	1,580.7	4.9	791.7	4.9
Service workers and shop sales workers	3,015.4	6.9	2,230.1	5.5	1,550.7	4.3
Craft and related workers	1,819.3	6.1	1,287.8	4.7	797.5	3.2
Plants and machine operators and assemblers	1,144.6	7.1	863.1	5.9	605.6	4.5
Elementary workers	2,440.1	6.8	1,807.8	5.4	1,246.5	4.2

(B) With exemption of managers, administrators and professionals

	Employees with weekly working hours over the specified levels					
	40 hrs		44 hrs		48 hrs	
	($Mn)	(%)	($Mn)	(%)	($Mn)	(%)
All employees	19,340.6	7.0	13,129.9	5.9	8,054.6	5.0
(A) Higher-skilled occupations	8,242.6	7.9	5,360.3	7.2	3,062.6	7.6
Managers and administrators	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Professionals	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Associate professionals	8,242.6	7.9	5,360.3	7.2	3,062.6	7.6
(B) Lower-skilled occupations	11,098.0	6.4	7,769.5	5.2	4,992.1	4.1
Clerks	2,678.7	5.6	1,580.7	4.9	791.7	4.9
Service workers and shop sales workers	3,015.4	6.9	2,230.1	5.5	1,550.7	4.3
Craft and related workers	1,819.3	6.1	1,287.8	4.7	797.5	3.2
Plants and machine operators and assemblers	1,144.6	7.1	863.1	5.9	605.6	4.5
Elementary workers	2,440.1	6.8	1,807.8	5.4	1,246.5	4.2

(C) With exemption of managers, administrators, professionals and associate professionals

	Employees with weekly working hours over the specified levels					
	40 hrs		44 hrs		48 hrs	
	($Mn)	(%)	($Mn)	(%)	($Mn)	(%)
All employees	11,098.0	6.4	7,769.5	5.2	4,992.1	4.1
(A) Higher-skilled occupations	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Managers and administrators	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Professionals	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Associate professionals	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
(B) Lower-skilled occupations	11,098.0	6.4	7,769.5	5.2	4,992.1	4.1
Clerks	2,678.7	5.6	1,580.7	4.9	791.7	4.9
Service workers and shop sales workers	3,015.4	6.9	2,230.1	5.5	1,550.7	4.3
Craft and related workers	1,819.3	6.1	1,287.8	4.7	797.5	3.2
Plants and machine operators and assemblers	1,144.6	7.1	863.1	5.9	605.6	4.5
Elementary workers	2,440.1	6.8	1,807.8	5.4	1,246.5	4.2

Notes: All working hours of affected employees above the SWH threshold will be treated as overtime, which would be entitled to compensation according to the statutory overtime pay rate or the overtime pay rate of the enterprise, whichever is higher. The corresponding % increase in wages in a year is then estimated by the amount of additional overtime pay over total wages of affected employees. The wages are computed in accordance with the definition of wages as set out in the Minimum Wage Ordinance.

N.A. Not applicable.

Sources: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.
Aug-Oct 2011 General Household Survey, Census & Statistics Department.

Table A6.14: Estimated increases in wages of affected employees by occupation (Scenario B.iii – overtime pay rate = 1.5)

(A) Without any exemption

	Employees with weekly working hours over the specified levels					
	40 hrs		44 hrs		48 hrs	
	($Mn)	(%)	($Mn)	(%)	($Mn)	(%)
All employees	55,220.8	13.0	36,017.9	11.2	21,183.3	9.8
(A) Higher-skilled occupations	34,735.1	13.8	21,882.7	12.6	12,164.5	12.8
Managers and administrators	15,503.5	16.0	10,192.5	15.3	5,774.6	14.6
Professionals	7,053.0	13.8	4,247.6	12.8	2,290.2	15.2
Associate professionals	12,178.7	11.7	7,442.7	10.0	4,099.7	10.2
(B) Lower-skilled occupations	20,485.7	11.8	14,135.2	9.5	9,018.8	7.5
Clerks	4,278.5	9.0	2,359.1	7.4	1,141.4	7.1
Service workers and shop sales workers	5,821.4	13.3	4,258.5	10.5	2,908.7	8.0
Craft and related workers	3,416.5	11.5	2,360.8	8.7	1,415.2	5.7
Plants and machine operators and assemblers	2,176.7	13.5	1,623.1	11.0	1,124.7	8.3
Elementary workers	4,792.6	13.4	3,533.7	10.6	2,428.9	8.2

(B) With exemption of managers, administrators and professionals

	Employees with weekly working hours over the specified levels					
	40 hrs		44 hrs		48 hrs	
	($Mn)	(%)	($Mn)	(%)	($Mn)	(%)
All employees	32,664.4	11.8	21,577.9	9.7	13,118.5	8.2
(A) Higher-skilled occupations	12,178.7	11.7	7,442.7	10.0	4,099.7	10.2
Managers and administrators	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Professionals	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Associate professionals	12,178.7	11.7	7,442.7	10.0	4,099.7	10.2
(B) Lower-skilled occupations	20,485.7	11.8	14,135.2	9.5	9,018.8	7.5
Clerks	4,278.5	9.0	2,359.1	7.4	1,141.4	7.1
Service workers and shop sales workers	5,821.4	13.3	4,258.5	10.5	2,908.7	8.0
Craft and related workers	3,416.5	11.5	2,360.8	8.7	1,415.2	5.7
Plants and machine operators and assemblers	2,176.7	13.5	1,623.1	11.0	1,124.7	8.3
Elementary workers	4,792.6	13.4	3,533.7	10.6	2,428.9	8.2

(C) With exemption of managers, administrators, professionals and associate professionals

	Employees with weekly working hours over the specified levels					
	40 hrs		44 hrs		48 hrs	
	($Mn)	(%)	($Mn)	(%)	($Mn)	(%)
All employees	20,485.7	11.8	14,135.2	9.5	9,018.8	7.5
(A) Higher-skilled occupations	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Managers and administrators	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Professionals	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Associate professionals	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
(B) Lower-skilled occupations	20,485.7	11.8	14,135.2	9.5	9,018.8	7.5
Clerks	4,278.5	9.0	2,359.1	7.4	1,141.4	7.1
Service workers and shop sales workers	5,821.4	13.3	4,258.5	10.5	2,908.7	8.0
Craft and related workers	3,416.5	11.5	2,360.8	8.7	1,415.2	5.7
Plants and machine operators and assemblers	2,176.7	13.5	1,623.1	11.0	1,124.7	8.3
Elementary workers	4,792.6	13.4	3,533.7	10.6	2,428.9	8.2

Notes: All working hours of affected employees above the SWH threshold will be treated as overtime, which would be entitled to compensation according to the statutory overtime pay rate or the overtime pay rate of the enterprise, whichever is higher. The corresponding % increase in wages in a year is then estimated by the amount of additional overtime pay over total wages of affected employees. The wages are computed in accordance with the definition of wages as set out in the Minimum Wage Ordinance.

N.A. Not applicable.

Sources: 2011 Annual Earnings and Hours Survey, Census & Statistics Department.
Aug-Oct 2011 General Household Survey, Census & Statistics Department.

Appendix 7

A List of Questions to be Further Examined in Relation to the Implementation of a Working Hours Regime in Hong Kong

I. Objective and Rationale

(1) What is/are the objectives of working hours policy? Should we consider it from the angle of protecting employees' occupational safety and health so that a maximum number of hours be prescribed? Or should we focus on the fair compensation of overtime work and if so overtime limitation may not be required?

(2) Is legislation the best or only way to achieve the objective(s)? Should other alternatives such as educational initiatives, awareness raising campaign, industry or occupation specific codes and guidelines be considered as well?

(3) Are employees concerned more about long working hours without compensation of overtime pay? Or are they willing to work long hours given due compensation of overtime hours?

(4) Should employees be given the right to choose the number of hours they work? In other words, should the coverage of working hours policy, if any, be made voluntary or compulsory? How do we balance the employees' freedom to choose the number of hours worked and protection of their safety and health?

(5) How should we handle the relationship between wages and working hours in working hours regulation? Should employees' wages be allowed to be reduced concomitant with a reduction in working hours?

(6) Should working hours requirements be applied on the basis of each employee or each employment contract? If the former is adopted, how can the working hours requirements be enforced when the employer concerned may not know how many jobs the employees are working, and how the hours worked should be kept track of? Which employer should give overtime pay for hours worked beyond the weekly threshold when multiple employers are involved?

II. Regime Design

(A) Definition of Working Hours

(7) What is the definition of working hours?

(8) Should "on-call" time be treated entirely as working hours or should its inclusion in working hours depend on different circumstances and, if so, what considerations should be given to the statutory definition of "on-call" time and working hours?

(9) Should meal and/or rest breaks be included as working hours?

(B) Standard working hours or maximum working hours

(10) Should we adopt standard working hours or maximum working hours?

(11) What is the weekly threshold (common ones adopted internationally are 40, 44 and 48 hours per week)? Or should we go for a higher threshold, say 54 hours? Should this threshold be applied across-the-board?

(12) Should we also set daily threshold, say 8 hours or 9 hours per day?

(13) Can the weekly and daily thresholds be exceeded? If yes, under what circumstances?

(C) Overtime

(14) Should the number of overtime hours be rigidly restricted? If an upper limit is set, what should be the threshold? Should there be only one upper limit, or different limits for different timeframes? Should overtime exemption apply to certain industries only? If overtime exemption is allowed, do companies have to seek approval from the government authority?

(15) Will certain categories of employees not be allowed to work overtime e.g. pregnant and young persons?

(16) Should we impose statutory overtime pay rate? If yes, should it be a normal or premium pay rate?

(17) Should we have one overtime pay rate for all hours exceeding statutory limit? Any special arrangement for overtime work on statutory holidays and rest days, etc (i.e. different sets of overtime pay rates)? Are there any criteria for overtime pay (overtime counted strictly on a weekly basis or reference period allowed)?

(18) Is agreement between employers and employees required for overtime work? If yes, should the agreement be in writing? Should we specify that the employees have the right to refuse to work overtime? Are employers allowed to request employees to work overtime and employees have no right to refuse under exceptional circumstances e.g. cases of force majeure, employer faces great loss and unpredictable amount of work? Will there be different overtime pay rates if there is employees' consent or without consent? If the employer has specified that it is not permitted to work overtime, can the employee still work overtime at his own accord and claim overtime pay later?

(19) Can overtime hours be compensated by leave/time-off? If yes, can overtime hours be partly compensated by overtime pay and partly by leave/time-off? Can employees choose to be compensated by leave/time-off or overtime pay? If overtime is to be compensated by leave/time-off, should it be calculated at the same rate as the overtime pay rate (e.g. if the overtime pay rate is 1.5, 1.5-hour time-off will be granted for 1 hour of overtime worked)?

(D) Exemptions

(20) Should regulation be imposed across-the-board, or should regulation be introduced for certain industries? Should we set different criteria with reference to the operation of different industries or job types? If so, what sort of platform and mechanism should be used to determine the criteria for different jobs and industries?

(21) Should exemption be incorporated into the regime? If yes, should it be:

- by occupation or job responsibility (the most common form of exemption under study)?
- by salary level?
- by size or sales volume of companies?

- other exceptional circumstances (e.g. emergency work arising from accidents, natural disaster, urgent work on machinery or equipment, etc.)?

(22) Should one set of exemption criterion (e.g. any one of the above criteria) or multiple exemption criteria (a combination of the above criteria) be considered?

(23) Should exemption be applied to the entire regime or only certain aspects of the regime (e.g. only weekly working hours limit, only overtime limit or overtime pay, etc.)?

(E) Flexibility Arrangements

(24) Should any flexibility arrangements be allowed, and how are these arrangements to be designed?

(25) Should the regime incorporate tailor-made working hours systems for certain industries or work nature?

(26) What sort of mechanism should be used to determine the criteria for different jobs and industries?

(27) Should we adopt reference period for averaging of the weekly hours? If yes, what is the length? Should there be different reference periods for different industries/occupations/nature of work?

(28) Should the regime allow opt-out from working hours regulation by employees? Can the employee withdraw the opt-out and be covered by the regime again?

(F) Night Work and Shift Work

(29) Will there be different sets of working hours standards for night workers and shift workers?

(30) Will night workers and shift workers enjoy different overtime pay rate?

(G) Other Considerations

(31) How, in the course of designing working hours policy, should the potential implications on small and medium enterprises (SMEs) be taken into account? Will there be, say, any exemption on certain standard working hours (SWH) measures for SMEs, or will the implementation of certain SWH measures be deferred to facilitate a smooth transition for SMEs? How should SMEs be defined for this purpose?

(32) If special measures are designed for SMEs, how do we resolve the possible dilemma of "unfair treatment to employees of SMEs"? Would these special measures be legally tenable in the Hong Kong context?

(33) How should the regime be designed so as not to substantially increase the labour cost to a level beyond the affordability of employers and hence seriously affect the business environment and overall competitiveness of Hong Kong?

(34) Do we consider increase in part-time or casual jobs a desirable trend? If not, how should the regime be designed so as to minimise the side-effect of increasing the number of part-time or casual jobs which may eventually bring about fragmentation of work?

(35) How can we improve employees' rights and benefits through working hours reduction without significantly causing adverse impact on the employment opportunities of vulnerable employees?

III. Administrative Requirements and Penalty

(36) What is the level of record keeping requirement imposed by employers on employees' working hours (i.e. how detailed should it be?)?

(37) How long should employers keep these records for inspection?

(38) Will employers be held criminally liable for offences such as violation of working hours and/or overtime limit? Will these offences involve imprisonment and fine?

(39) Will failure to keep proper records constitute an offence?

IV. Implementation

(40) Whether the introduction of SWH shortly after statutory minimum wage will adversely affect the business sector and in turn the economy? If the answer is affirmative, what would be a reasonable interval for mandating SWH?

(41) Should SWH be introduced in phases (i.e. certain weekly hours threshold to be achieved by a certain period of time)?

(42) Should phased implementation be applied based on company size or other criteria?

Abbreviations

AEHS	Annual Earnings and Hours Survey
C&SD	Census and Statistics Department
CH	Contractual Working Hours
Code (The)	Part III of the Canada Labour Code
Council Directive	Council Directive 93/104/EC
EC Treaty	Treaty Establishing the European Community
ECJ	European Court of Justice
ECR	Employment of Children Regulations
EO	Employment Ordinance
ESDC	Korean Economic and Social Development Commission
EU (The)	The European Union
Eurofound	European Foundation for the Improvement of Living and Working Conditions
EYP(I)R	Employment of Young Persons (Industry) Regulations
FLSA	Fair Labour Standards Act of 1938
FW Act	Fair Work Act 2009 (Cth)
GDP	Gross Domestic Product
GHS	General Household Survey
Guidelines (The)	Guidelines on Bus Captain Working Hours, Rest Times and Meal Breaks
GMB	Green Minibus
IFA	Individual Flexibility Arrangement
ILCs	International Labour Conventions
ILO	International Labour Organisation
Japanese LSA (The)	The Labour Standards Act of Japan
Korea	Republic of Korea
Korean LSA (The)	The Labour Standards Act of Korea
Labour Act (The)	The Labour Act of 16 March 1971
LD	Labour Department

Legislative Assembly Committee (The)	The Third Standing Committee of the Legislative Assembly
LWHS	Long-working-hours Sectors
MWO	Minimum Wage Ordinance
NES	National Employment Standards
New Work Systems Act	The Act of 17 March 1987 relating to the Introduction of New Work Systems in the Enterprises
OECD	Organisation for Economic Co-operation and Development
OSHO	Occupational Safety and Health Ordinance
OT	Overtime
POT	Paid Overtime
RDO	Rostered Day Off
SGSIA	Security and Guarding Services Industry Authority
SMEs	Small and Medium Enterprises
SMW	Statutory Minimum Wage
Standing Committee (The)	Standing Committee for the Coordination of Social Affairs
SWH	Standard Working Hours
Labour Law (The)	The Labour Law of the People's Republic of China
Taiwan's LSA	The Labour Standards Act of Taiwan
TD	Transport Department
TOIL	Time-off In Lieu
TFEU	Treaty on the Functioning of the EU
UCOT	Uncompensated Overtime Hours
UK (The)	The United Kingdom
US (The)	The United States
WTD	Working Time Directive (Directive 2003/88/EC)
WTR	Working Time Regulations

Glossary

Glossary	Definition
Associate professionals	Associate professionals include science technicians, nurses and midwives, dental assistants and other health associate professionals; architectural, surveying and engineering technicians; optical and electronic equipment controllers; ship pilots and air traffic controllers; principals and teachers of primary school and kindergarten/nursery; statistical assistants; computer operators; law clerks; accounting supervisors; public relation officers; sales representatives; designers; estate managers; social work assistants; performers and sportsperson.
Clerks	Clerks include stenographers, secretaries and typists; bookkeeping, finance, shipping, filing and personnel clerks; cashiers and tellers; receptionists and information clerks.
Compensated working hours	This is the sum of contractual working hours, paid overtime hours and overtime hours to be compensated by time-off in lieu.
Contractual working hours	Contractual working hours are working hours in accordance with the contract of employment, or with the agreement or at the direction of the employer. Meal break is included in the working hours if it is regarded as working hours according to the employment contract or agreement with the employer; or if an employee has to be in attendance at a place of employment during his meal breaks in accordance with the employment contract or with the agreement or at the direction of the employer, irrespective of whether he is provided with work or not during the meal break period.
Craft and related workers	Craft and related workers include miners and quarrymen; bricklayers, carpenters and other construction workers; metal moulders; blacksmiths; machinery, electric and electronic instrument mechanics; jewellery workers and watch makers; potters; typesetters; bakers, food and beverage processors; painters; craft workers in textile, garment, leather, rubber and plastic trades and other craft workers.
Demographic dependency ratio	It refers to the number of persons aged under 15 and those aged 65 and over per 1 000 persons aged between 15 and 64.
Economic dependency ratio	It refers to the number of economically inactive persons per 1 000 economically active persons.
Elementary workers	Elementary workers include cleaners; messengers; private security guards; building caretakers; freight handlers; lift operators; construction labourers; and hand packers.
Employees	Employees are persons who work for employers for wage, salary, commission, tips, or payment in kind. Employees from the 2011 Annual Earnings and Hours Survey (AEHS) cover all employees under the coverage of the Minimum Wage Ordinance (MWO). Specifically, the MWO applies to all employees with the following

Glossary	Definition
	exceptions: (i) a family member who lives in the same dwelling as the employer; (ii) an employee as defined in the Contracts for Employment Outside Hong Kong Ordinance; (iii) a person serving under a crew agreement under the Merchant Shipping (Seafarers) Ordinance, or on board a ship which is not registered in Hong Kong; (iv) an apprentice whose contract of apprenticeship has been registered under the Apprenticeship Ordinance; (v) a student intern or a work experience student during a period of exempt student employment as defined in the Minimum Wage Ordinance; (vi) live-in domestic workers; and (vii) Government employees.
Estimated total working hours	This is the sum of contractual working hours, paid overtime hours, overtime hours to be compensated by time-off in lieu and uncompensated overtime hours.
Full-time employees	Employees who could not be classified as part-time employees (please refer to definition of part-time employees below).
Higher-skilled workers	Higher-skilled workers include managers and administrators; professionals; and associate professionals.
Labour productivity	Labour productivity is compiled by dividing real output (e.g. real Gross Domestic Product or real value added) by labour input (e.g. total hours worked or total persons engaged). It shows how efficient labour input is used for generating real output.
Lower-skilled workers	Lower-skilled workers include clerks; service workers and shop sales workers; craft and related workers; plant and machine operators and assemblers; and elementary workers.
Managers and administrators	Managers and administrators include administrators; directors, chief executive officers, presidents, general managers, functional managers, branch managers and small business managers in industry, commerce, import and export trades, wholesale and retail trades, catering and lodging services, transport, electricity, gas, water and other services.
Overtime hours to be compensated by time-off in lieu	Overtime hours to be compensated by time-off in lieu refers to the overtime hours worked in a wage period that are to be compensated by time-off after excluding those that have already been compensated by time-off within the same wage period.
Paid overtime hours	Paid overtime hours are those hours, in addition to the contractual working hours, during which the employee is, in accordance with the contract of employment or with the agreement or at the direction

Glossary	Definition
	of the employer, in attendance at a place of employment, and for which the employee is compensated with overtime allowance.
Part-time employees	Employees are regarded as working part-time if one of the following conditions is met: (i) the number of usual days of work per week is less than 5 (for persons with a fixed number of working days per week); or (ii) the number of usual hours of work per working day is less than 6 (for persons with a fixed number of working days per week); or (iii) the number of usual hours of work per week is less than 30 (for persons without a fixed number of working days per week). However, persons who usually work 24 hours per shift are excluded, regardless of the number of usual days of work per week.
Plant and machine operators and assemblers	Plant and machine operators and assemblers include well drillers and borers; ore smelting furnace operators; brick and tile kilnmen; sawmill sawyers; paper makers; chemical processing plant operators; power-generating plant and boiler operators; asbestos cement products makers; metal finishers and electroplaters; dairy and other food processing machine operators; printing machine operators; machine operators for production of textile, rubber and plastic products; assemblers; drivers; seamen and other plant and machine operators.
Professionals	Professionals include qualified professional scientists, doctors, dentists and other medical professionals; architects, surveyors and engineers; vice-chancellors, directors, academic staff and administrators of university and post-secondary college; principals and teachers of secondary school; statisticians; mathematicians; system analysts and computer programmers; lawyers; accountants; business consultants and analysts; social workers; translators and interpreters; news editors and journalists; writers; librarians and members of religious orders.
Service workers and shop sales workers	Service workers and shop sales workers include flight attendants and travel guides; cooks and waiters/waitresses; baby-sitters; hairdressers and beauticians; transport conductors and other service workers; wholesale and retail salespersons in shops; shop assistants and fashion models.
Small and medium enterprises	In this report, unless otherwise specified, small and medium enterprises refer to those enterprises with fewer than 50 persons engaged.
Statistical measures	Key statistical measures include average, median, quartiles and percentiles. Average refers to the arithmetic mean of a set of data. It is calculated by adding all the values of the data in the set divided by the total number of data in the set.

Glossary	Definition
	For an ordered data set which is arranged in ascending order (i.e. from the smallest value to the largest value), the median is the value that ranks in the middle of all data in the set. If the total number of data is an odd number, the median is the middle value of the ordered data set. If the total number of data is an even number, the median is the mean of the two middle values of the ordered data set. Quartiles are the three values that divide an ordered data set into four equal parts in terms of number of observations. The three values, in order of magnitude, are called the first quartile (also known as the lower quartile), the second quartile (also known as the median) and the third quartile (also known as the upper quartile). Correspondingly, the first (lower) quartile is the value that delineates the lowest 25% of all the data concerned. The second quartile is the value that delineates the lowest 50% of all the data concerned, and thus is equal to the median. The third (upper) quartile is the value that delineates the lowest 75% of all the data concerned. Percentiles are the 99 values that divide an ordered data set into 100 equal parts (in terms of number of observations). In brief, the p^{th} percentile is the value which delineates the lowest p% of all the data, where p can be any integer value from 1 to 99. The 25^{th} percentile, 50^{th} percentile and 75^{th} percentile are equal to the first (lower) quartile, median and third (upper) quartile respectively.
Temporary employment	Temporary employment refers to an employment on a day-to-day basis or for a fixed period of less than 60 days.
Uncompensated overtime hours	Uncompensated overtime hours refer to the overtime hours without any compensation (neither overtime allowance nor time-off in lieu) from employers.
Underemployment rate	Underemployment rate refers to the proportion of underemployed persons in the labour force. The criteria for an employed person to be classified as underemployed are involuntarily working less than 35 hours during the 7 days before enumeration; and either (i) has been available for additional work during the 7 days before enumeration; or (ii) has sought additional work during the 30 days before enumeration. Working short hours is considered involuntary if it is due to slack work, material shortage, mechanical breakdown or inability to find a full-time job. Following this definition, employed persons taking no-pay leave due to slack work during the 7 days before enumeration are also classified as underemployed if they work less than 35 hours or are on leave even for the whole period during the 7-day period.

Glossary	**Definition**
Unemployment rate	Unemployment rate refers to the proportion of unemployed persons in the labour force. For a person aged 15 or over to be classified as unemployed, that person should: (i) not have had a job and should not have performed any work for pay or profit during the 7 days before enumeration; and (ii) have been available for work during the 7 days before enumeration; and (iii) have sought work during the 30 days before enumeration. However, if a person aged 15 or over fulfils the conditions (i) and (ii) above but has not sought work during the 30 days before enumeration because he believes that work is not available, he is still classified as unemployed, being regarded as a so-called "discouraged worker". Notwithstanding the above, the following types of persons are also classified as unemployed: (i) persons without a job, have sought work but have not been available for work because of temporary sickness; and (ii) persons without a job, have been available for work but have not sought work because they: ✧ have made arrangements to take up a new job or to start business on a subsequent date; or ✧ are expecting to return to their original jobs (e.g. casual workers are usually called back to work when service is needed).
Wages	"Wages" in the 2011 AEHS follows the definition as adopted in the Employment Ordinance. In brief, the following components are covered: (i) Basic wage; (ii) Commission and tips not of gratuitous nature; (iii) Guaranteed bonuses and allowances other than year-end bonus/payment (e.g. shift allowance, cost-of-living allowance, meal allowance, good attendance bonus not of gratuitous nature); and (iv) Overtime allowance. The following are not covered in the definition of "wages" in the 2011 AEHS: (i) The value of any accommodation, education, food, fuel, water, light or medical care provided by the employer; (ii) Employer's contribution to any retirement scheme; (iii) Commission, attendance allowance or attendance bonus which

Glossary	Definition
	is of a gratuitous nature or is payable only at the discretion of the employer; (iv) Non-recurrent travelling allowance or the value of any travelling concession or travelling allowance for actual expenses incurred by the employment; (v) Any sum payable to the employee to defray special expenses incurred by him/her by the nature of his employment; (vi) End of year payment, or annual bonus which is of a gratuitous nature or is payable only at the discretion of the employer; and (vii) Gratuity payable on completion or termination of a contract of employment.

References

1. About Canada, *Canada's International Gateway About Canada.* Available at: http://www.canadainternational.gc.ca/ci-ci/about-a_propos/overview-apercu.aspx?lang=eng
2. Advisory, Conciliation and Arbitration Service, the UK.
   Available at: http://www.acas.gov.uk
3. The American Federation of Labour and Congress of Industrial Organisations (AFL-CIO), the US. Available at: http://www.aflcio.org/
4. An Act Respecting Labour Standards, Quebec, Canada.
   Available at: http://www.canlii.org/en/qc/laws/stat/rsq-c-n-1.1/latest/
5. Araki, S. and Iwasaki, K. (2005): "Death due to Overwork (Karoshi): Causation, health service, and life expectancy of Japanese males", in *The Journal of the Japan Medical Association*, JMAJ 48, 92-8, 2005.
   Available at: http://www.med.or.jp/english/pdf/2005_02/092_098.pdf
6. Araki, T. (2004): *The Mechanism for Establishing Changing Terms and Conditions of Employment/ The scope of Labor Law and the Notion of Employees,* University of Tokyo, Japan Institute for Labour Policy and Training (JILPT) Report No.1 2004.
   Available at: http://www.jil.go.jp/english/reports/documents/jilpt-reports/no1.pdf
7. Arup, C. et al (2009): *Research Report - Assessing the Impact of Employment Legislation: The Coalition Government's Labour Law Programme 1996-2007 and the Challenge of Research,* Workplace and Corporate Law Research Group, Department of Business Law and Taxation and Australian Centre for Research in Employment and Work, Department of Management, Monash University. Available at: http://ssrn.com/abstract=1544028
8. Australia Legal Information Institute: *Coal & Allied Mining Services Pty Ltd v MacPherson* (2010): FCAFC 83.
   Available at: http://www.austlii.edu.au/au/cases/cth/FCAFC/2010/83.html
9. Australia: *Workplace Relations and other Legislation Amendment Act 1996.*
   Available at: http://www.austlii.edu.au/au/legis/cth/consol_act/wraolaa1996489/sch5.html
10. Australia Trade Union Archives.
    Available at: http://www.atua.org.au/biogs/ALE1402b.htm
11. Australian Bureau of Statistics (2003): "Paid work: Longer working hours", in *Australian Social Trends, 2003*, Cat. No. 4102.0.
    Available at: http://www.abs.gov.au/AUSSTATS/abs@.nsf/latestmf/4102.0~99#Work
12. Australian Bureau of Statistics (2006a): "Trends in Hours Worked", in *Australian Social Trends,* 2006, Cat. No. 4102.0.
    Available at: http://www.abs.gov.au/AUSSTATS/abs@.nsf/latestmf/4102.0~99#Work
13. Australian Bureau of Statistics (2006b): *How Australians use their time,* 2006, Cat. No. 4153.0. Available at: http://www.abs.gov.au/ausstats/abs@.nsf/mf/4153.0
14. Australian Bureau of Statistics (2009): "Patterns in Work", in *Australian Social Trends, December 2009*, Cat. No. 4102.0.
    Available at: http://www.abs.gov.au/AUSSTATS/abs@.nsf/latestmf/4102.0~99#Work
15. Australian Bureau of Statistics (2010a): *Labour Force, Australia, Sep 2010,* Cat. No. 6202.0.
    Available at: http://www.abs.gov.au/ausstats/abs@.nsf/mf/6202.0
16. Australian Bureau of Statistics (2010b): *Working Time Arrangements, Australia, November 2009,* Cat. No. 6342.0. Available at: http://www.abs.gov.au/ausstats/abs@.nsf/mf/6342.0
17. Australian Bureau of Statistics (2011a): "Fifty Years of Labour Force: Now and Then", in *Australian Social Trends, Dec 2011,* Cat. No. 4102.0.
    Available at: http://www.abs.gov.au/AUSSTATS/abs@.nsf/latestmf/4102.0~99#Work

18. Australian Bureau of Statistics (2011b): "Overemployment", in *Australian Social Trends, June 2011,* Cat. No. 4102.0.
Available at: http://www.abs.gov.au/AUSSTATS/abs@.nsf/latestmf/4102.0~99#Work
19. Australian Council of Trade Unions (2011): *The Fair Work Act Two Years On: A review of Labor's changes to workplace laws,* July 2011. Available at: http://www.actu.org.au/images/dynamic/attachments/7201/the_fair_work_act_two-years_on.pdf
20. Australian Courts.
Available at: http://www.hcourt.gov.au/; http://www.fedcourt.gov.au/aboutct/aboutct.html
21. Australian Government.
Available at: http://australia.gov.au/about-australia /our-government
22. Australian Government (2005): *Work Choices: A New Workplace Relations System*. Available at: http://www.printnet.com.au/verve/_resources/Workchoices.pdf
23. Australian Government (2009a): *Australia's Fair Work System Fact Sheet*. Available at: http://www.deewr.gov.au/workplacerelations/newworkplacerelations/pages/factsheets.aspx
24. Australian Government (2009b): *Federal protections for freedom of association and other workplace rights*, Fact Sheet. Available at: http://www.deewr.gov.au/WorkplaceRelations/NewWorkplaceRelations/Documents/FactSheets/FactSheet_5.pdf
25. Australian Government Productivity Commission Inquiry Report (2011): *Economic Structure and Performance of the Australian Retail Industry,* No. 56, 4 November 2011. McKinsey Global Institute: Netherlands Report – Retail. Available at: http://ww1.mckinsey.com/mgi/reports/pdfs/dutch/Retail.pdf
26. Australian Human Resource Institute (2009): *Comparison Table*.
Available at: http://www.fairworkassist.com.au/docs/fwrc_comparison_table.pdf
27. Australian Industrial Relations Commission (2002): *Working Hours Test Case*. Melbourne, AIRC, Full judgments. Available at: http://www.airc.gov.au/alldocuments/PR072002.htm
28. Australian Industrial Relations Commission (2006): *Australian Industrial Relations Commission Historical Overview,* December 2006. Available at: www.airc.gov.au
29. Australian Industrial Relations Commission, *Conciliation and Arbitration Act 1950,* No. 20. Available at: http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=4&ved=0CE0QFjAD&url=http%3A%2F%2Fwww.airc.gov.au%2Fabout%2Fourhistory%2Flist_of_acts_1904_2004.doc&ei=Zh_9TqeBFM6jiQf7scG9CA&usg=AFQjCNHPgrz_M9R0cGz16KlE4Ze-c5LFnw
30. Barnes, A. and Lafferty, G. (2010): "The Fair Work Act: As Good as It Gets?", in *The Economic and Labour Relations Review.* Vol. 21, No. 1, pp. 1-12. Available at: http://www.asb.unsw.edu.au/research/publications/economiclabourrelationsreview/Documents/ELRR%20-%20Volume%2021%20-%20Number%201%20-%20October%202010.pdf
31. The Belgian Federal Public Service Employment, Labour and Social Dialogue.
Available at: http://www.employment.belgium.be/home.aspx
32. Benimadhu, P. (1987): *Hours of Work: Trends and Attitude in Canada*, Conference Board of Canada, Ottawa.
33. Blanpain, R. and Köhler, E. and Rojot, J. (1997): *Legal and Contractual Limitations to Working Time in the European Union 2nd revised and updated version*, Peeters Publishers.
34. Boeri, T., Burda, M. C. and Kramarz, F. (2008): *Working Hours and Job Sharing in the EU and USA*, Oxford University Press.
35. Bosch, G. (1994): "Federal Republic of Germany" in Bosch. G, Dawkins, P. and Michon, F. (1994): *Times are Changing. Working time in 14 industrialised countries*, International Institute for Labour Studies.

36. Bould, K. (2005): *Losing the Eight Hour Day? A resource for teachers and Later Years students to accompany central components of the 2006 program celebrating the 150th anniversary of winning the eight hour day in Victoria*.
Available at: www.8hourday.org.au/pdf/L8HDTeachers_Notes.pdf
37. Boulin, J. Y., Lallement, M., Messenger, J. C. and Michon, F. (2006): *Decent Working Time: New trends, new issues*, International Labour Office.
38. Broughton, A. (2003): *ECJ rules that on-call working is working time*, 8 October 2003. European Industrial Relations Observatory Online (Eironline), European Foundation for the Improvement of Living and Working Conditions.
Available at: http://www.eurofound.europa.eu/eiro/2003/10/inbrief/eu0310202n.htm
39. The Bureau of Labour Statistics, the US (2010): *Charting International Labour Comparisons,* the US Department of Labour.
40. BusinessLink, the UK. Available at: http://www.businesslink.gov.uk
41. Cahill, R. (2007): "On Winning the 40 Hour Week", in *Illawarra Unity – Journal of the Illawarra Branch of the Australian Society for the Study of Labour History,* 7(1) 2007, p.18.
Available at: http://ro.uow.edu.au/cgi/viewcontent.cgi?article=1083&context =unity
42. Campbell, I. (2002): "Extended working hours in Australia", in *Labour and Industry*, 13(1): 91-110. Available at:
http://www.justice.qld.gov.au/__data/assets/pdf_file/0003/62751/Extended-Working-Hours-In-Australia-Counting-The-Costs.pdf
43. Campbell, I. (2005): *Long working hours in Australia: working-time regulation and employer pressures*. CASR Working Papers Number 2005-2, Centre for Applied Social Research, July 2005. Available at: http://mams.rmit.edu.au/idugmq0rktcxz.pdf
44. Canada Labour Code. Available at: http://laws-lois.justice.gc.ca/eng/acts/L-2/index.html
45. Canadian Association of Administrators of Labour Legislation.
Available at: http://www.caall-acalo.org
46. Canadian Legal Information Institute. Available at: http://www.canlii.org/
47. Carver, S. R. (1961): *Official Year Book of the Commonwealth of Australia*, No. 47. Available at:
http://books.google.com/books?id=nWrXPC33D4oC&pg=PA430&lpg=PA430&dq=Queensland+Parliament+passed+a+legislation+granting+a+44-hour+standard+week+to+employees&source=bl&ots=neb802V42M&sig=EmWygq2mpb-1n5iRPV7s4Hy4y9s&hl=zh-TW&ei=SJfNTpDrKIqriAea9vzmDg&sa=X&oi=book_result&ct=result&resnum=1&ved=0CB0Q6AEwAA#v=onepage&q=Queensland%20Parliament%20passed%20a%20legislation%20granting%20a%2044-hour%20standard%20week%20to%20employees&f=false
48. Census and Statistics Department (C&SD), Hong Kong.
Available at: http://www.censtatd.gov.hk/about_us/welcome_message/index.jsp
49. C&SD, Hong Kong (2012): *2011 Report on Annual Earnings and Hours Survey*.
50. C&SD, Hong Kong, ongoing, *Hong Kong Statistics.* Available at: http://www.censtatd.gov.hk/hong_kong_statistics/statistics_by_subject/index.jsp?subjectID=2&charsetID=1&displayMode=T
51. C&SD, Hong Kong, ongoing, *Gross Domestic Product*. Annually and quarterly.
52. C&SD, Hong Kong, ongoing, *Quarterly Report on General Household Survey.*
53. Central Intelligence Agency World Fact Book.
Available at: https://www.cia.gov/library/publications/the-world-factbook/
54. Centre for Strategy & Evaluation Services, Deloitte (2010): *Study to support an Impact Assessment on further action at European level regarding Directive 2003/88/EC and the evolution of working time organization*, November 2010.
Available at: ec.europa.eu/social/BlobServlet?docId=6421&langId=en

55. Chartered Institute of Personnel and Development, the UK.
Available at: http://www.cipd.co.uk/
56. Chau, A. (2009): *Jek Yeun Thong*, National Library Board Singapore.
Available at: http://infopedia.nl.sg/articles/SIP_1559_2009-08-30.html
57. Clarification as to which employees are excluded from Divisions I and XIV pursuant to subsections 167(2)(a) and 167(3) of Canada Labour Code – Part III, 815-1-IPG-049.
Available at: http://www.hrsdc.gc.ca/eng/labour/ipg/049.shtml
58. Commonwealth Court of Conciliation and Arbitration (1947): *40 hour Week Case: Standard Hours Inquiry, 1947.* Available at:
http://ww2.fwa.gov.au/education/doc-40HourWeek
59. Commonwealth of Australia (2008): *Explanatory Memorandum to the Fair Work Bill 2008*, The Parliament of the Commonwealth of Australia.
Available at: http://www.austlii.edu.au/au/legis/cth/bill_em/fwb2009124/memo_0.html
60. The Constitution of Japan. Available at: http://www.ndl.go.jp/constitution/e/etc/c01.html
61. Craine, R. (1973): "On the service flow from labour" in *Review of Economic Studies,* 40, pp. 39-46.
62. Creighton, B. and Stewart, A. (2005): *Labour Law (4th ed)*, Federation Press.
63. Creighton, B. and Stewart, A. (2010): *Labour Law (5th ed)*, Federation Press.
64. Dawkins P. and Baker M. (1994a): "Australia" in Bosch. G, Dawkins, P. and Michon, F. (1994): *Times are Changing. Working time in 14 industrialised countries*, International Institute for Labour Studies.
65. Dawson, D., McCulloch, K. and Baker, A. (2001): *Extended working hours in Australia: counting the costs*, commissioned by the Queensland Department of Industrial Relations, Adelaide, Centre for Sleep Research.
Available at: http://www.drewdawson.com/downloads/reports/extended_work_hours.pdf.
66. Deloitte (2010): *European Commission – DG for Employment, Social Affairs and Equal Opportunities - Study to support an Impact Assessment on further action at European level regarding Directive 2003/88/EC and the evolution of working time organizations*, conducted by Deloitte (21 December 2010).
67. Delsen, L., Bosworth, D., Groß, H. and Muñoz de Bustillo y Llorent, R. (2007): *Operating Hours and Working Times: A Survey of Capacity Uilisation and Employment in the European Union*, Physica-Verlag Heidelberg.
68. Department for Business, Innovation and Skills, the UK.
Available at: http://www.bis.gov.uk/
69. Department of Foreign Affairs and Trade, Australian Government, *About Australia: Workplace Relations in Australia*.
Available at: http://www.dfat.gov.au/facts/workplace_relations.html
70. Department of Foreign Affairs and Trade, Australian Government, *Australia Economic Fact Sheet.* Available at: http://www.dfat.gov.au/geo/fs/aust.pdf
71. Department of Justice, Canada. Available at: http://laws-lois.justice.gc.ca/eng/
72. Department of Labour, the US. Available at: http://www.dol.gov/
73. Department of Labour, the US (1981): *Report of the Minimum Wage Study Commission*, Vol. IV, 1981.
74. Department of Parliamentary Services, Parliament of the Commonwealth of Australia (2005): *The Constitution and Industrial Relations: Is a Unitary System Achievable?* Paper no. 8, 2005-2006, Parliament of Australia Research Brief 2.
Available at: http://www.aph.gov.au/library/pubs/rb/2005-06/06rb08.pdf
75. Directgov, the UK. Available at: http://www.direct.gov.uk/en/index.htm
76. Dubofsky, M. and Dulles, F. R. (2004): *Labour in America: a History*, Harlan Davidson Inc.

77. Economic and Social Development Commission, Korea and its *Social Pact to Overcome the Economic Crisis*, p.1. Available at: http://www.lmg.go.kr/eng/about/about01.asp and http://www.lmg.go.kr/eng/file_down/Social%20Pact%20to%20Overcome%20the%20Economic%20Crisis.pdf
78. Economic and Social Development Commission, Korea (2001): *Agreement on Multiple Trade Unions and Wage Payments,* 13 February 2001. Available at: http://www.lmg.go.kr/bbs/viewbody.asp?code=e_bbs41&page=2&id=2&number=2&keyfield=&keyword=&category=&BoardType=&admin
79. Economic and Social Development Commission, Korea (2010): *Adoption of the Agreement to Improve the Practice of Long Working Hours and Advance the Labour Culture,* 15 June 2010. Available at: http://www.lmg.go.kr/bbs/viewbody.asp?code=e_bbs41&page=1&id=11&number=11&keyfield=all&keyword=hour&category=&BoardType=&admin=
80. The Economist (2007): *Death by overwork in Japan, Jobs for Life*, *the Economist*, 19 December 2007.
Available at: http://www.economist.com/node/10329261?story_id=10329261
81. Elton, J. (2008): *Forward with Fairness as an Industrial Relations Strategy for Women Working in Minimum Conditions Sectors,* The University of Waikato.
Available at: http://www.mngt.waikato.ac.nz/
82. Employment (Amendment) Bill No. 34/2008, Singapore.
Available at: http://www.parliament.gov.sg/sites/default/files/080034.pdf
83. Employment Act (chapter 91), Singapore. Available at: http://statutes.agc.gov.sg/aol/search/display/view.w3p;page=0;query=CompId%3Aa30e0caa-8d13-4695-9cbf-aa0bc7a4934f;rec=0;resUrl=http%3A%2F%2Fstatutes.agc.gov.sg%2Faol%2Fbrowse%2FtitleResults.w3p%3Bletter%3DE%3Btype%3DactsAll
84. Employment Standards Act, 2000, Ontario, Canada.
Available at: http://www.canlii.org/en/on/laws/stat/so-2000-c-41/latest/so-2000-c-41.html
85. Employment Standards Act, British Columbia, Canada. Available at: http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96113_01
86. Employment Standards Act, New Brunswick, Canada.
Available at: http://www.gnb.ca/leb-cte/index-e.asp
87. Employment Standards Act, Prince Edward Island, Canada.
Available at: http://www.gov.pe.ca/law/statutes/pdf/e-06_2.pdf
88. Employment Standards Act, Yukon, Canada.
Available at: http://www.community.gov.yk.ca/es/index.html
89. Employment Standards Code, Alberta, Canada. Available at: http://www.qp.alberta.ca/574.cfm?page=E09.cfm&leg_type=Acts&isbncln=9780779744015
90. Employment Standards Code, Manitoba, Canada.
Available at: http://www.gov.mb.ca/labour/standards/acts_regulations.html
91. Employment Standards Regulation, Alberta, Canada. Available at: http://www.qp.alberta.ca/574.cfm?page=1997_014.cfm&leg_type=Regs&isbncln=9780779745418
92. Enforcement Decree of the Labour Standards Act (Presidential Decree No. 15320, March 27, 1997), Korea.
93. European Commission, the European Union (EU).
Available at: http://ec.europa.eu/index_en.htm
94. European Commission (2010): *Detailed report on the implementation by Member States of Directive 2003/88/EC concerning certain aspects of the organisation of working time*, *Commission Staff Working Paper*, p. 108.

95. European Foundation for the Improvement of Living and Working Conditions (Eurofound) (2010a): *Changes over time – First findings from the fifth European Working Conditions Survey by European Foundation for the Improvement of Living and Working Conditions*.
96. Eurofound (2010b): *Fifth European Working Conditions survey – 2010*.
Available at: http://www.eurofound.europa.eu/surveys/ewcs/2010/
97. European Industrial Relations Observatory online, the EU.
Available at: http://www.eurofound.europa.eu/eiro/
98. Evans, A. A. (1975): *Hours of Work in Industrial Countries*, International Labour Office.
99. Exemptions, Special Rules and Establishment of Minimum Wage, Ontario, Canada.
Available at: http://www.canlii.org/en/on/laws/regu/o-reg-285-01/latest/o-reg-285-01.html
100. Extended Working Hours Review Panel (2004): *Extended Working Hours Review,* Minister for Consumer and Employment Protection, Western Australia. Available at: http://www.commerce.wa.gov.au/labourrelations/PDF/Publications/EWH_Final_27Feb04.pdf
101. The Fair Labour Standards Act of 1938, the US.
Available at: http://www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf
102. Fair Work Act 2009, Act No. 28 of 2009, Australia.
Available at: http://www.comlaw.gov.au/Details/C2010C00741
103. Fair Work Australia (2011a): *Fair Work Australia Annual report 1 July 2010 - 30 June 2011*.
Available at: http://www.fwa.gov.au/index.cfm?pagename =aboutannual
104. Fair Work Australia (2011b): *Annual Report of Fair Work Australia 1 July 2010 - 30 June 2011*, September 2011. Available at: http://www.fwa.gov.au/documents/annual_reports/ar2011/FWA_annual_report_2010-11.pdf
105. Fair Work Australia. *AIR Bulletin*, Vol. 31/2002, 1 August 2002.
Available at: http://www.fwa.gov.au/index.cfm?pagename=cdrsummaries
106. Fair Work Australia. *Decisions*.
Available at: http://www.fwa.gov.au/index.cfm?pagename=cdralldecisions
107. Fair Work Australia, *Key Changes*.
Available at: http://www.fwa.gov.au/index.cfm?pagename=transchanges#changes
108. Fair Work Australia, *The Modern Awards*.
Available at: http://www.fwa.gov.au/index.cfm?pagename=awardsfind#search
109. Fair Work Bill (2008): *Explanatory Memorandum*, House of Representatives, Australia Parliament.
Available at: http://www.austlii.edu.au/au/legis/cth/bill_em/fwb2009124/memo_1.html
110. Fair Work Ombudsman (2009a): *Best practice guide: Use of Individual Flexibility Arrangements*. Available at: www.fairwork.gov.au/
111. Fair Work Ombudsman (2009b): *Guidance Note 3: FWO Compliance Notice Policy*, 17 December 2009. Available at: http://www.fairwork.gov.au/fwoguidancenotes/GN-3-FWO-Compliance-Notice-Policy.pdf
112. Fair Work Ombudsman (2010a): *Assisted Voluntary Resolution*, Fact Sheet.
Available at: www.fairwork.gov.au
113. Fair Work Ombudsman (2010b): *Community service leave and the National Employment Standards*, Fact Sheet. Available at: www.fairwork.gov.au
114. Fair Work Ombudsman (2010c): *Guidance Note 8: Investigative Process of the Fair Work Ombudsman*, 31 May 2010. Available at: http://www.fairwork.gov.au/fwoguidancenotes/GN-8-FWO-Investigative-Process.pdf
115. Fair Work Ombudsman (2010d): *Fair Work Ombudsman Annual Report 2009-2010*.
Available at: http://www.fairwork.gov.au/about-us/publications/pages/annual-reports.aspx

116. Fair Work Ombudsman (2010e): *Introduction to the National Employment Standards*, Fact Sheet. Available at: www.fairwork.gov.au
117. Fair Work Ombudsman (2010f): *Long service leave and the National Employment Standards*, Fact Sheet. Available at: www.fairwork.gov.au
118. Fair Work Ombudsman (2010g): *Maximum Weekly Hours and the National Employment Standards*, Fact Sheet. Available at: www.fairwork.gov.au
119. Fair Work Ombudsman (2010h): *Parental leave and related entitlements and the National Employment Standards*, Fact Sheet. Available at: www.fairwork.gov.au
120. Fair Work Ombudsman (2010i): *Requests for flexible working arrangements and the National Employment Standards*, Fact Sheet. Available at: www.fairwork.gov.au
121. Fair Work Ombudsman (2011a): *Annual Report 2010-11*, Commonwealth of Australia, September 2011. Available at: http://www.fairwork.gov.au/about-us/publications/pages/annual-reports.aspx
122. Fair Work Ombudsman (2011b): *Fair Work Ombudsman Annual Report 2010-2011*, Commonwealth of Australia, September 2010 and September 2011. Available at: http://www.fairwork.gov.au/about-us/publications/pages/annual-reports.aspx
123. Fair Work Ombudsman (2011c): *Guidance Note 4: FWO Enforceable Undertakings Policy,* 20 July 2011. Available at: http://www.fairwork.gov.au/fwoguidancenotes/GN-4-FWO-Enforceable-Undertakings-Policy.pdf
124. Fair Work Ombudsman (2011d): *Litigation Policy*, 20 July 2011. Available at: http://www.fairwork.gov.au/fwoguidancenotes/GN-1-FWO-Litigation-Policy.pdf
125. Fair Work Ombudsman, *Annual leave and the National Employment Standards*, Fact Sheet. Available at: www.fairwork.gov.au
126. Fair Work Ombudsman, *Public holidays and the National Employment Standards*, Fact Sheet. Available at: www.fairwork.gov.au
127. Fair Work Online, Glossary: Classifications. Available at: http://www.fairwork.gov.au/resources/glossary/pages/default.aspx
128. The Family and Medical Leave Act of 1993, the US. Available at: http://www.dol.gov/whd/regs/statutes/fmla.htm
129. Fear, J. and Denniss, R. (2009): *Something for Nothing: Unpaid overtime in Australia*, Policy Brief No. 7, The Australia Institute. Available at: https://www.tai.org.au/
130. Fear, J., Rogers, S. and Denniss, R. (2010): *Long time, no see: The impact of time poverty on Australian workers*, Policy Brief No. 2, The Australia Institute. Available at: https://www.tai.org.au/
131. Fear, J. (2011): *Polluted time: Blurring the boundaries between work and life*, Policy Brief No. 32, The Australia Institute. Available at: http://apo.org.au/research/polluted-time-blurring-boundaries-between-work-and-life
132. The Federal Court of Australia (2011a): *The Federal Court of Australia Annual Report 2010-2011*, Sept 2011. Available at: http://www.fedcourt.gov.au/aboutct/ ar2011.pdf
133. The Federal Court of Australia (2011b): *The Federal Magistrates Court of Australia Annual Report 2010-2011*, Sept 2011. Available at: http://www.fmc.gov.au/pubs/docs/10-11.pdf
134. Federal Magistrates Court of Australia. Judgments. Available at: http://www.austlii.edu.au/
135. Federal Register, the US (2003): *Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees*, 68 FR 15560, 31 March 2003.
136. Federal Register, the US (2004): *Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees (Final Rule)*, 69 FR 22122, 23 April 2004.

137. Feldstein, M. S. (1967): "Specification of the labour input in the aggregate production function", in *Review of Economic Studies*, 34, pp. 375-68.
138. Foreign and Commonwealth Office, United Kingdom, *Country Profile.* Available a http://www.fco.gov.uk/en/travel-and-living-abroad/travel-advice-by-country/country-profile/
139. Fraser Institute (2011): Economic Freedom of the World: 2011 Annual Report. Available at: http://www.freetheworld.com/release.html
140. Fudge, J. (2006): *Control Over Working Time and Work-Life Balance: A Detailed Analysis of the Canada Labour Code, Part III, 2006*. Available at: http://www.hrsdc.gc.ca/eng/labour/employment_standards/fls/research/research17/page00.shtml
141. Fuess, S. M. (2006): *Working Hours in Japan: Who Is Time-Privileged?* Institute for the Study of Labour. IZA DP No. 2195, July 2006. Available at: http://ftp.iza.org/dp2195.pdf
142. General Occupational Health and Safety Regulation, New Brunswick, Canada. Available at: http://www.gnb.ca/0062/PDF-acts/o-00-2.pdf
143. Goodwin, M. and Maconachie, G. (2008): *Political influence and the enforcement of minimum labour standards in the Australian federal industrial relations jurisdiction.* Available at: http://www.mngt.waikato.ac.nz/departments/Strategy%20and%20Human%20Resource%20Management/airaanz/proceedings/melbourne2008/ref/M.%20Goodwin,%20G.%20Maconachie.pdf
144. Goodwin, M. and Maconachie, G. (2009): "Enforcing Minimum Labour Standards in Australia from 2010: Correcting or Compounding Problems", in *Proceedings of the 2009 AIRAANZ Conference, Labour Capital and Change*. Available at: http://eprints.qut.edu.au /26979/1/26979.pdf
145. Goodwin, M. and Maconachie, G. (2010): "Transforming the inspection blitz: targeted campaigns, enforcement and the Ombudsman", in *Labour & Industry*, August 2010 issue. Available at: http://findarticles.com/p/articles/mi_hb3024/is_1_21/ai_n56365680/pg_3/?tag=content;col1
146. Goodwin, M. and Maconachie, G. (2011): "Minimum labour standards enforcement in Australia: caught in the crossfire?" in *Economic and Labour Relations Review*, July 2011 Vol. 22(2) Centre for Applied Economic Research and Industrial Relations Research Centre. Available at: http://www.freepatentsonline.com/article/Economic-Labour-Relations-Review/263441095.html
147. Government of Canada, Discover Canada, *Canadian History,* 2009. Available at: http://www.canada.gc.ca/aboutcanada-ausujetcanada/hist/canada-eng.html
148. Government of Canada, Discover Canada, *How Canadians Govern themselves*, 2009. Available at: http://www.cic.gc.ca/english/resources/publications/discover/section-08.asp
149. Greenhouse, S. (2007): "*Wal-Mart Settles U.S. Suit about Overtime*", The New York Times, 26 January 2007.
150. Grossman, J. (1978): *Fair Labour Standards Act of 1938: Maximum Struggle for a Minimum Wage*, the US Department of Labour.
151. Hardy T. and Howe, J. (2009): "Partners in Enforcement? The New Balance Between Government and Trade Union Enforcement of Employment Standards in Australia" *Australian Journal of Labour Law*, available in the form of *Legal Studies Research Paper* No. 509. Available at: http://ssrn.com
152. Hart, R. A. and McGregor, P. G. (1988): The return to labour services in West German manufacturing industry. *European Economic Review.* Vol. 32, pp. 947-63.
153. Hayashi, F. and Prescott, E. C. (2004): "The 1990s in Japan: A Lost Decade", Paper for the Final International Forum of the Collaboration Projects. Available at: http://www.esri.go.jp/jp/prj21/forum04/pdf/summary4.pdf

154. Health and Safety Executive, the UK. Available at: http://www.hse.gov.uk/
155. The Heritage Foundation, *2012 Index of Economic Freedom*. Available at: http://www.heritage.org/index/ranking
156. The Hong Kong Association of Banks. Available at: http://www.hkab.org.hk/ExchangeRateDisplayAction.do
157. The House of Representative, Japan, *From Imperial Diet to National Diet*. Available at: http://www.shugiin.go.jp/itdb_english.nsf/html/statics/guide/imperial.htm
158. Howe, J., Yazbek, N. and Cooney, S. (2011): *Study on Labour Inspection Sanctions and Remedies: The case of Australia*. Geneva: International Labour Organisation (ILO), March 2011. Available at: http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---lab_admin/document/publication/wcms_154066.pdf
159. Human Resources Development Canada (HRSDC), Canada. Available at: http://www.hrsdc.gc.ca/eng/home.shtml
160. HRSDC (1997a): Evaluation and Data Development Strategic Policy, *Evaluation of Federal Labour Standards (Phase I): Final Report*. August 1997.
161. HRSDC (1997b): *Evaluation of Federal Labour Standards (Phase I) Final Report*, August 1997 p. 41.
162. HRSDC (1998): Evaluation and Data Development Strategic Policy. *Evaluation of Federal Labour Standards (Phase II): Final Report,* December 1998.
163. HRSDC (2006): *Hours of Work, Overtime, Meal and Other Breaks*. Available at: http://www.hrsdc.gc.ca/eng/lp/spila/clli/eslc/21hours_work_overtime_meal.shtml
164. Hunt, J. (1999): *Has Work-sharing Worked in Germany?* Quarterly Journal of Economics.
165. Husbands, R., Schneider, G. and Li, S.J. (1995): *Conditions of Work Digest.* International Labour Organisation, Vol. 14, 1995. Available at: http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1101&context=globaldocs
166. International Journal of Tourism Research: *Preferred Shopping Destination: Hong Kong versus Singapore,* March/April 2004.
167. International Labour Convention (ILC) No. 1: The *Hours of Work (Industry) Convention, 1919*.
168. ILC No. 14: The *Weekly Rest (Industry) Convention, 1921*.
169. ILC No. 30: The *Hours of Work (Commerce and Offices) Convention, 1930*.
170. ILC No. 47: The *Forty-Hour Week Convention, 1935*.
171. ILC No. 106: The *Weekly Rest (Commerce and Offices) Convention, 1957*.
172. ILC No. 132: The *Holidays with Pay Convention (Revised), 1970*.
173. ILC No. 171: The *Night Work Convention, 1990*.
174. ILC No. 175: The *Part-Time Work Convention, 1994*.
175. International Labour Organisation (ILO). Available at: www.ilo.org
176. ILO (2004): *Working Time and Productivity*, Information Sheet No. WT-18, June 2004.
177. ILO (2005): *Hours of Work: From Fixed to Flexible*, Report III (Part 1B) General Survey of the reports concerning the Hours of Work (Industry) Convention, 1919 (No. 1), and the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30), submitted to the 93rd International Labour Conference in 2005.
178. ILO (2010a): *G20 Country Briefs: Australia*. Available at: http://www.dol.gov/ilab/media/events/G20_ministersmeeting/G20-australia-brief.pdf
179. ILO (2010b): *Working Conditions Laws Report 2010: A global review*.
180. ILO (2011): *Working time in the twenty-first century*, Report for discussion at the Tripartite Meeting of Experts on Working-time Arrangements (17-21 October 2011).
181. ILO, *International Labor Conference – First Annual Meeting*. Available at: http://www.ilo.org/public/libdoc/ilo/P/09616/09616(1919-1).pdf

182. ILO, *Japan – Working time – 2009*. Available at: http://www.ilo.org/dyn/travail/travmain.sectionReport1?p_lang=en&p_structure=2&p_sc_id=1001&p_countries=JP
183. ILO, *National Labour Law Profile: Japan*. Available at: http://www.ilo.org/public/english/dialogue/ifpdial/info/national/jp.htm
184. ILO, *Reduction of Hours of Work Recommendation, 1962 (R 116)*. Available at: http://www.ilo.org/ilolex/cgi-lex/convde.pl?R116
185. ILO Labour Administration and Inspection Programme, Information resources on Singapore. Available at: http://www.ilo.org/labadmin/info/lang--en/WCMS_150916/index.htm
186. International Labour Recommendation No. 98: The *Holidays with Pay Recommendation, 1954*.
187. International Labour Recommendation No. 103: The *Weekly Rest (Commerce and Offices) Recommendation, 1957*.
188. International Labour Recommendation No. 116: The *Reduction of Hours of Work Recommendation, 1962*.
189. International Labour Recommendation No. 178: The *Night Work Recommendation, 1990*.
190. International Labour Recommendation No. 182: The *Part-Time Work Recommendation, 1994*.
191. Iwasaki, K., Makahashi, M. and Nakata, A. (2006): *Health Problems due to Long Working Hours in Japan: Working Hours, Workers' Compensation (Karoshi), and Preventive Measures*, pp.537-540, Industrial Health 2006, 44, National Institute of Industrial Health. Available at: http://www.jniosh.go.jp/old/niih/en/indu_hel/2006/pdf/indhealth_44_4_537.pdf
192. Japan External Trade Organisation, *Investing in Japan*. Available at: http://www.jetro.go.jp/en/invest/setting_up/laws/section4/page5.html
193. Japan for Sustainability (2008): *Japan Adopts Work-Life Balance Charter*. Available at: http://www.japanfs.org/en/pages/026959.html
194. Japan Institute for Labour Policy and Training (JILPT). Available at: http://www.jil.go.jp
195. JILPT (1992a): "Annual Limit on Overtime Hours Lowered to 360 Hours-Guidelines for Labour-Management Agreement Revised", in *Public Policy*, Vol. 31, No. 10, 1 October 1992. Available at: http://www.jil.go.jp/jil/bulletin/year/1992/vol31-10/04.htm
196. JILPT (1992b): "Shorter Working Hours Bill Becomes Law", in *Public Policy*, Vol. 31, No. 8, 1 August 1992. Available at: http://www.jil.go.jp/jil/bulletin/year/1992/vol31-08/03.htm
197. JILPT (1993): "Bill Revising Labour Standards Law Becomes Law; 40-Hour Workweek to be Launched in April 1994", in *Public Policy*, Vol. 32, No. 8, 1 August 1993. Available at: http://www.jil.go.jp/jil/bulletin/year/1993/vol32-08/03.htm
198. JILPT (1997): "40-Hour Workweek Fully Implemented on April 1", in *Public Policy*, Vol. 36, No. 6, 1 June 1997. Available at: http://www.jil.go.jp/jil/bulletin/year/1997/vol36-06/04.htm
199. JILPT (1998): "The Labour Standards Law is Revised: The Discretionary Work Scheme Extended", in *Public Policy*, Vol. 37, No. 11, 1 November 1998. Available at: http://www.jil.go.jp/jil/bulletin/year/1998/vol37-11/03.htm
200. JILPT (2005): "Revised occupational health and safety law enacted to strength measures against overwork and mental health problems", in *the Japan Labour Flash*, No. 51, 1 December 2005. Available at: http://www.jil.go.jp/foreign/emm/bi/51.htm
201. JILPT (2009): "Working Time – In Search of New Research Territories beyond Flexibility Debates", in *JILPT Report*, No. 7, 2009. Available at: http://www.jil.go.jp/english/reports/documents/jilpt-reports/no.7.pdf

202. JILPT (2010a): *Japanese Working Life Profile 2010/2011- Labor Statistics*.
203. JILPT (2010b): *Labour Situation in Japan and Analysis: General Overview 2009/2010, Chapter III, Human Resource Management*. Available at: http://www.jil.go.jp/english/laborsituation/2009-2010/general_overview/general_2009-2010.pdf
204. JILPT (2011a): *Journal Working Life Profile 2010/2011 – Labour Statistics*. Available at: http://www.jil.go.jp/english/workinglifeprofile/10-11/all.pdf
205. JILPT (2011b): *Labour Situation in Japan and Analysis: Detailed Exposition 2011/2012, Chapter 4, Research Study on Diversification of Working Places and Working Hours*. Available at: http://www.jil.go.jp/english/laborsituation/2011-2012/chapter4.pdf
206. JILPT (2011c): *Non-scheduled Hours Worked*. Available at: http://www.jil.go.jp/english/estatis/eshuyo/201104/e0402.htm
207. JILPT (2011d): *Total Hours Worked and Scheduled Hours Worked*. Available at: http://www.jil.go.jp/english/estatis/eshuyo/201104/e0401.htm
208. JILPT (2011e): *Databook of International Labour Statistics 2011*.
209. JILPT (2012): *Labour Situation in Japan and Its Analysis: General Overview 2011/2012*.
210. Japanese Law Translation, *Act on Improvement, etc. of Employment Management for Part-Time Workers (短時間労働者の雇用管理の改善等に関する法律)*. Available at: http://www.japaneselawtranslation.go.jp/law/detail/?id=84&vm=04&re=02&new=1
211. Justice, Employment Tribunals of UK. Available at: http://www.justice.gov.uk/
212. Kanno, T. (2007): "Act on the Welfare of Workers Who Take Care of Children or Other Family Members Including Child Care and Family Care Leave", in *Japan Labour Review*, Vol. 4, No. 3, Summer 2007, JILPT. Available at: http://www.jil.go.jp/english/JLR/documents/2007/JLR15_kanno.pdf
213. Kendall, B. (2011): "Drug Companies Stymied on Overtime Pay Cases", in *The Wall Street Journal*, February 28, 2011.
214. Kimes, M. (2008): "Overtime Pay: A Ticking Time Bomb", in *Fortune Small Business*, 22 January 2008.
215. Korea Employers Federation (2011): *2011 Industrial Relations and Labor Market of Korea.*
216. Korea International Labour Foundation (KOILAF). Available at: http://www.koilaf.org
217. KOILAF (2007): *Current Labour Situation in Korea - 2007 Updated Edition.* Available at: http://www.koilaf.org/KFeng/engPublication/bbs_read_dis.php?board_no=97
218. KOILAF (2008): *Current Labour Situation in Korea - 2008 Updated Edition.* Available at: http://www.koilaf.org/KFeng/engPublication/bbs_read_dis.php?board_no=108
219. KOILAF (2009): *Labour Situation in Korea 2009.* Available at: http://www.koilaf.org/KFeng/engPublication/bbs_read_dis.php?board_no=116
220. KOILAF (2010a): "A 40-hour work week system to be expanded to the workplaces with less than 20 employees from July 2011" in *Labour Today*, Issue No. 746.
221. KOILAF (2010b): "Government reveals "National Employment Strategy 2020" for the balance of growth, employment and welfare", *Labour Today*, Issue No. 730. Available at: http://www.koilaf.org/KFeng/engLabornews/bbs_read_dis.php?board_no=6987&page=3&keyField=&keyWord=&keyBranch=
222. KOILAF (2010c): *Korea Labour Review*, Vol. 6, No. 35 (November/December 2010). Available at: http://www.koilaf.org/KFeng/engPublication/bbs.php?code1=3
223. KOILAF (2010d): *Labour Situation in Korea 2010*. Available at: http://www.koilaf.org/KFeng/engPublication/bbs_read_dis.php?board_no=124
224. KOILAF (2011). *Labor Management Manual for Foreign Investors 2011.*
225. Korea Labour Institute (KLI). Available at: http://www.kli.re.kr/kli_ehome/main/main.jsp

226. KLI (2011): *Labor Issues in Korea 2010.* Available at: http://www.kli.re.kr/kli_ehome/publication/vew.ehome-100007?ifEnDataExist=1&seq=6936
227. Kuruvilla, S., Lee, C. K. and Gallagher, M. E. (2011): *From Iron Rice Bowl to Informalisation: Markets, Workers and the State in a Changing China,* Cornell University Press, 2011.
228. The Labour Act of 16 March 1971, Belgium.
Available at: http://www.employment.belgium.be/defaultTab.aspx?id=6224
229. Labour Standards Act (労働基準法) (Act No. 49 of April 7, 1947), Japan.
Available at: http://www.jil.go.jp/english/laborinfo/library/documents/llj_law1-rev.pdf
230. Labour Standards Act (Act No. 5309, March 13, 1997), Korea.
231. Labour Standards Act, Saskatchewan, Canada.
Available at: http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/L1.pdf
232. Labour Standards in Quebec, Quebec, Canada.
Available at: http://www.cnt.gouv.qc.ca/fileadmin/pdf/publications/c_0149a.pdf
233. Labour Standards Act, Newfoundland and Labrador, Canada.
Available at: http://www.gov.nl.ca/lra/agency/legislation.html
234. Labour Standards Act, Northwest Territories and Nunavut, Canada. Available at: http://www.canlii.org/en/nt/laws/stat/rsnwt-1988-c-l-1/latest/rsnwt-1988-c-l-1.html
235. Labour Standards Code, Nova Scotia, Canada. Available at: http://www.canlii.org/en/ns/laws/stat/rsns-1989-c-246/latest/rsns-1989-c-246.html
236. Labour Standards Meal Regulations, Northwest Territories and Nunavut, Canada. Available at: http://www.canlii.org/en/nt/laws/regu/rrnwt-1990-c-l-4/latest/rrnwt-1990-c-l-4.html
237. Labour Standards Regulations, Newfoundland and Labrador, Canada.
Available at: http://www.gov.nl.ca/lra/agency/legislation.html
238. Labour Union Act (Act No. 174 of June 1, 1949), Japan.
Available at: http://www.jil.go.jp/english/laborinfo/library/documents/llj_law2.pdf
239. Lee, B. H., Kim, H. W., Jeong, J. H. and Cho, S. J. (2009): *Labor in Korea 1987-2006: Looking through the Statistical Lens.* Korea Labour Institute.
240. Lee, K. Y. (1989): *Singapore - A Country Study.* Based on the Country Studies Series by Federal Research Division of the Library of Congress.
Available at: http://www.country-data.com/cgi-bin/query/r-11801.html
241. Lee, M. A. and Mather, M. (2008): "U.S. Labour Force Trends", in *Population Bulletin*, Vol. 63, No.2, June 2008.
242. Lee, S. (2003): *Political economy of working time in Korea: Tensions in the reduction of working hours.* Conditions of Work and Employment Programme, International Labour Office. Available at: http://www.sase.org/oldsite/conf2003/papers/lee_sangheon.pdf
243. Lee, S. and Eyraud, F. (2008): "Australia: Institutional Changes and Workforce Fragmentation", in *Globalization, flexibilization and working conditions in Asia and the Pacific*, ILO.
244. Lee, S., McCann, D. and Messenger Jon C. (2007): *Working Time Around the World: Trends in working hours, laws and policies in a global comparative perspective,* ILO.
245. Leheny, D. (2003): *The Rules of Play: National Identity and the Shaping of Japanese Leisure,* Cornell University Press.
246. Leslie, D. (1984): The productivity of hours in U.S. manufacturing industries. *Review of Economics and Statistics.* 66, pp. 486-90.
247. Leslie, D. and Wise, J. (1980): "The productivity of hours in U.K. manufacturing and production industries" in *Economic Journal.* 80, pp. 85-94.
248. Lister, A. B. (2005): "A more active enforcement of employment standard is underway" in *The Lawyers' Weekly*.

249. Marchand, O., Rault, D. and Turpin, E. (1983): "Des 40 heures aux 39 heures: processus et réactions des enterprises", in *Economie et Statistique*, April 1983, pp. 3-16.
250. Markovic, N. (2011): *Healthy Working Time: Evaluating Australia and its Available Industrial Instruments*, Student Working Paper No. 9, Centre for Employment and Labour Relations Law, The University of Melbourne, September 2011. Available at: http://celrl.law.unimelb.edu.au/files/Student_Working_Paper_No._9_%28 FINAL%29.pdf
251. McCann, D. (2005): *Working Time Laws: A Global Perspective,* ILO. Available at: http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_travail_pub_23.pdf
252. McKinsey Global Institute, September (1997): *Boosting Dutch Economic Performance, Retail Case*. Available at: http://ww1.mckinsey.com/mgi/reports/pdfs/dutch/Retail.pdf
253. McLynn, L. (2009): *Working Time and Holidays: A Practical Legal Guide*, Oxford University Press.
254. McMullen, J. and Brewer, M. (2001): *Working Time: The Law and Practice*, Sweet & Maxwell.
255. Meng, X. Q., Lu, L. and Idris, S. U. (2005): *Working time in transition: The dual task of standardisation and flexibilisation in China*, ILO.
256. Messenger, J. C. (2007): *Working Time and Workers' Preferences in Industrialised Countries: Finding the Balance*, International Labour Office 2007.
257. Minimum Wage and Working Conditions Regulation, Manitoba, Canada. Available at: http://www.canlii.org/en/mb/laws/regu/man-reg-62-99/latest/man-reg-62-99.html
258. Minimum Wage Order (General), Nova Scotia, Canada. Available at: http://www.canlii.org/en/ns/laws/regu/ns-reg-5-99-sch-a/latest/ns-reg-5-99-sch-a.html
259. Minimum Wage Regulation, New Brunswick, Canada. Available at: http://www.canlii.org/en/nb/laws/regu/nb-reg-2011-54/latest/nb-reg-2011-54.html
260. Minister's Media Centre Information, Australia.
Available at: http://ministers.deewr.gov.au/shorten/fair-work-act-review-announced
261. Minister's Office, Ontario, Canada, *Employment Standards: Ministry Successes,* 29 July 2011.
262. Ministry of Economy, Trade and Industry, Japan (2010): *The New Growth Strategy Blueprint for Revitalising Japan.*
Available at: http://www.meti.go.jp/english/policy/economy/growth/report20100618.pdf
263. Ministry of Employment and Labour (MOEL), Korea.
Available at: http://www.moel.go.kr/english/main.jsp
264. MOEL (2010a): *2010 Employment and Labor Policy in Korea*.
Available at: http://www.moel.go.kr/english/ibook_policy/index.html
265. MOEL (2010b): *40-hour workweek to apply to workplaces with fewer than 20 employees from July 1, 2011*.
Available at: http://www.moel.go.kr/english/topic/working_view.jsp?&idx=702
266. MOEL, *Enforcement Decree of the Labour Standards Act 1997*. Available at: http://www.moel.go.kr/english/topic/laborlaw_view.jsp?idx=254&tab=Standards
267. MOEL, *Labour Standards Act 1997*. Available at: http://www.moel.go.kr/english/topic/laborlaw_view.jsp?idx=254&tab=Standards
268. MOEL, *Major Statistics*.
Available at: http://www.moel.go.kr/english/statistics/major_statistics.jsp
269. MOEL, *More Reasonable Use of Working Hours to be Expanded*, 17 November 2010.
Available at: http://www.moel.go.kr/english/topic/working_view.jsp?&idx=686
270. Ministry of Health, Labour and Welfare (MHLW), Japan.
Available at: http://www.mhlw.go.jp/

271. MHLW (2002): *Announcement of Comprehensive Program for the Prevention of Health Impairment Due to Overwork*. Available at: http://www.jniosh.go.jp/icpro/jicosh-old/english/guideline/OverworkMeasures.html
272. MHLW (2008): *Annual Health, Labour and Welfare Report 2007-2008. Chapter 3 - Realising Fair and Diverse Work Styles and Securing the Safety of Workers of Part 2 (Key Administrative Measures of the MHLW)* Available at: http://www.mhlw.go.jp/english/wp/wp-hw2/part2/p2c3s1.pdf
273. MHLW (2009): *Annual Health, Labour and Welfare Report 2008-2009. Chapter 3 - Realising of Work-Life Balance, and Fair and Diverse Work Styles of Part 2 (Key Administrative Measures of the MHLW)* Available at: http://www.mhlw.go.jp/english/wp/wp-hw3/dl/Part02-03.pdf
274. MHLW (2010): *Annual Health, Labour and Welfare Report 2009-2010. Chapter 2 - Efforts to Reform the Ministry of Health, Labour and Welfare of Part 2 (Measures for the current political Issues)* Available at: http://www.mhlw.go.jp/english/wp/wp-hw4/honbun.html
275. MHLW, *Introduction to the revised Child Care and Family Care Leave Law*. Available at: http://www.mhlw.go.jp/english/policy/affairs/dl/05.pdf
276. MHLW, *Pamphlet about MHLW*. Available at: http://www.mhlw.go.jp/english/org/pamphlet/dl/pamphlet-about_mhlw.pdf
277. Ministry of Manpower (MOM), Singapore. Available at: http://www.mom.gov.sg/Pages/default.aspx
278. MOM, *Changes to Employment Act: A quick guide to the changes to the Employment Act from 1st January 2009*. Available at: http://www.mom.gov.sg/Documents/employment-practices/changes-to-the-ea.pdf
279. MOM, *Conditions of Employment 2010*, Manpower Research and Statistics Department. Available at: http://www.mom.gov.sg/statistics-publications/national-labour-market-information/publications/Pages/default.aspx
280. MOM (2010): *Manpower Statistics in Brief, 2010*. Available at: http://www.mom.gov.sg/Publications/mrsd_msib2010.pdf
281. MOM (2011): *Labour Market 2010*, Manpower Research and Statistics Department. Available at: http://www.mom.gov.sg/statistics-publications/national-labour-market-information/publications/Pages/default.aspx
282. Morozumi, M. (2009): "Balanced Treatment and Bans on Discrimination – Significance and Issues of the Revised Part-Time Work Act", in *Japan Labour Review*, Vol. 6, No. 2, pp.39-55, Spring 2009, JILPT. Available at: http://www.jil.go.jp/english/JLR/documents/2009/JLR22_all.pdf
283. Nakatuska, I. (2011): *Facts and Measures for Work-Life Balance in Japan*, Cabinet Office, Powerpoint presentation on 17 November 2011. Available at: http://www.gender.go.jp/eastasia/pdf/2011/2011_02.pdf
284. The North American Agreement on Labour Cooperation. Available at: http://www.naalc.org
285. North, S. and Weathers, C. (2006): "The End of Overtime Pay: More Production or Just More Work for Japan's White Collar Workers" in *The Asia-Pacific Journal: Japan Focus*, 9 January 2006.
286. North, S. (2010): *Work-Life in Japan: The Past is Prologue*. The Boston College Center for Work & Family. Available at: http://www.bc.edu/content/dam/files/centers/cwf/research/publications/pdf/BCCWF%20EBS%20Work%20Life%20in%20Japan.pdf

287. Norton, R. (2011): *Employment law in Hong Kong and Australia: A comparison*. Available at: http://www.martindale.com/employee-benefits-law/article_Norton-Rose-OR-LLP_1358322.htm
288. O'Neill, S. and Neilsen, M. A. (2008): *Workplace Relations Amendment (Transition to Forward with Fairness) Bill 2008.* Bills Digest no. 72, 2007-2008, 8 March 2008. Available at: http://www.aph.gov.au/library/pubs/bd/2007-08/08bd072.pdf
289. O'Reilly, J. Cebrian, I. and Lallement, M. (2000): *Working-Time Changes: Social Integration Through Transitional Labour Markets,* Labour Markets and Employment Policy.
290. Obata, F. (2007): "Bill for the Partial Amendment of the Industrial Safety and Health Act and Other Related Acts", in *Japan Labour Review*, Vol. 4, No. 3, Summer 2007, JILPT. Available at: http://www.jil.go.jp/english/JLR/documents/2007/JLR15_obata.pdf
291. Office for National Statistics, the UK (2011): Hours worked in the labour market - 2011. Available at: http://www.ons.gov.uk/ons/rel/lmac/hours-worked-in-the-labour-market/2011/rpt-hours-worked-in-the-labour-market.html#tab-4-7-per-cent-fall-in-average-hours-worked-in-the-UK-since-1992
292. Ogura, K. (2006): "Contemporary Working Time in Japan - Legal System and Reality", *Japan Labour Review*, Vol. 3, No. 3, Summer 2006, JILPT. Available at: http://www.jil.go.jp/english/JLR/documents/2006/JLR11_all.pdf
293. Ogura, K. (2009): *Long Working Time and Flexibility of Working Time and Management and Workplace in Japan*, pp.87-96, No. 7 of 2009, JILPT. Available at: http://www.jil.go.jp/english/reports/documents/jilpt-reports/no.7_ogura.pdf
294. Ogura, K. (2010a): "Managerial Working Hours and Heavy Workloads", in Japan Labour Review, Vol. 7, No. 4, Autumn 2010, JILPT. Available at: http://www.jil.go.jp/english/JLR/documents/2010/JLR28_ogura.pdf
295. Ogura, K. (2010b): "Research Study on Diversification of Working Places and Working Hours", in *Japan Labour Review*, Vol. 7, No. 2, Spring 2010, JILPT. Available at: http://www.jil.go.jp/english/JLR/documents/2010/JLR26_ogura.pdf
296. Ogura, K. and Okada, Y. (2002): *Research on Annual Paid Holidays (Summary),* JILPT. Available at: http://www.jil.go.jp/english/reports/documents/jilpt-reports/no1.pdf
297. Ontario Human Rights Commission (2005): *Human Rights and Family in Ontario*. Discussion Paper, pp.24-32.
298. Ontario, *History of employment standards in Ontario*, Ministry of Labour, Ontario, Canada. Available at: http://www.worksmartontario.gov.on.ca/scripts/default.asp?contentID=5-1-1-1
299. Ontario, Provincial Task Force on Hours of Work and Overtime (1987): Working Times: The Report of the Ontario task Force on Hours of Work and Overtime (Phase I) & (Phase II).
300. Ontario, *Your Guide to Employment Standards Act*, *2000*, Ministry of Labour, Ontario, Canada. Available at: http://www.labour.gov.on.ca/english/es/pdf/es_guide.pdf
301. Ordinance for Enforcement of the Labour Standards Act (労働基準法施行規則), Japan. Available at: http://www.cas.go.jp/jp/seisaku/hourei/data/oelsa.pdf
302. Organisation for Economic Co-operation and Development (OECD). Available at: www.oecd.org/
303. OECD (2003): *Usual Hours of Work (per week)*. Available at: http://stats.oecd.org/glossary/detail.asp?ID=4844
304. OECD (2011): *Average usual weekly hours worked on the main job by full-time employment in OECD Countries, 2000-2010.* Available at: http://stats.oecd.org/Index.aspx?DataSetCode=ANHRS

305. OECD (2012): *Incidence of Full-time and Part-time Employment – common definition in OECD countries 2000-2011*.
306. Ottawa: Statistics Canada, 2010 (Cat. No. 71F0004XVB).
307. Ouchi, S. (2010): "Legal Issues Concerning Nominal Supervisors and Managers", in *Japan Labour Review*, Vol. 7, No. 4, Autumn 2010, JILPT.
Available at: http://www.jil.go.jp/english/JLR/documents/2010/JLR28_ouchi.pdf
308. Park, J. S. and Park, E. K. (2011): *Pay in Korea - An Introductory Guide.* Korea Labour Institute.
309. Parliament of Singapore. Available at: http://www.parl.gov.sg/
310. Parliament of Singapore (2009a): "Flexi-work arrangements", in *Singapore Parliament Report*, Parliament No. 11, Session No. 2, Vol. No. 86, Sitting No. 10, Sitting date on 14 September 2009. Available at:
http://sprs.parl.gov.sg/search/topic.jsp?currentTopicID=00073735-ZZ&currentPubID=00075282-ZZ&topicKey=00075282-ZZ.00073735-ZZ_1%23%23
311. Parliament of Singapore (2009b): "Working from home", in *Singapore Parliament Report*, Parliament No. 11, Session No. 2, Vol. No. 86, Sitting No. 9, Sitting date on 19 August 2009. Available at:
http://sprs.parl.gov.sg/search/topic.jsp?currentTopicID=00073723-ZZ&currentPubID=00075281-ZZ&topicKey=00075281-ZZ.00073723-ZZ_1%23%23
312. Parliamentary Library, Parliament of Australia.
Available at: http://www.aph.gov.au/library/intguide/law/industriallaw.htm
313. Pitt, G. and Fairhurst, J. (1998): *Blackstone's Guide to Working Time*, Blackstone Press Limited/Oxford University Press.
314. Pocock, B (2003): *Work/Life Collision*, Federation Press, Melbourne. Quoted from Fear et al (2009).
315. Pocock, B. and Elton, J. (2008): *Work, Family and the Proposed National Employment Standards: A Submission to the Australian Government,* Centre for Work + Life, Hawke Research Institute for Sustainable Societies University of South Australia.
Available at: http://www.unisa.edu.au/hawkeinstitute /cwl/default.asp
316. Provisional Minimum Wage Commission, Hong Kong (2010): *Report of the Provisional Minimum Wage Commission*, October 2010.
317. Revised Labour Standards Act (enacted in April 2010), Japan.
Available at: http://www.mhlw.go.jp/english/policy/affairs/dl/07.pdf
318. Rubin, M. and Richardson, R. (1997): *The Microeconomics of the Shorter Working Week.* Avebury, Aldershot.
319. Sakai, K. (2007): "Analysis of Work-Child Care Balance of Male Workers in Japan and Their Desires to Take Child Care Leave", in *Japan Labour Review*, Vol. 4, No. 4, Autumn 2007, JILPT. Available at:
http://www.jil.go.jp/english/JLR/documents/2007/JLR16_sakai.pdf
320. Savada, S. A. M. and Shaw, W. (1990): *South Korea: A Country Study.* Washington: GPO for the Library of Congress. Available at: http://countrystudies.us/south-korea/
321. Senate Standing Committee on Education & Employment and Workplace Relations (2008): *The Senate: Fair Work Bill 2008 [Provisions],* (Canberra: Senate Printing Unit, 2008), 4.
322. Sevais, J. M., Bolle, P., Lansky, M. and Smith, C. L. (2007): *Working for Better Times – Rethinking work for the 21st Century*, International Labour Office.
323. The Singapore Department of Statistics.
Available at: http://www.singstat.gov.sg/abtus/abtus.html
324. Singapore Statutes Online. Available at: http://statutes.agc.gov.sg/aol/home.w3p
325. Small and Medium Enterprises Information of Japan, *Small and Medium Enterprise Basic Law (Act No. 154 of 1963: Amended in December 2, 1999)*. Available at:
http://www.sme.ne.jp/policies/08_kihonhou/kihonhou.html

326. Stanton, P and Young, S. (2008): *Workers, Corporations, and Community: Facing Choices for a Sustainable Future, Vol. 1 Refereed Papers, Proceedings of 22nd AIRAANZ Conference*, Association of Industrial Relations Academics of Australia and New Zealand.
327. Statistics Bureau, Director-General for Policy Planning (Statistical Standards) and Statistical Research and Training Institute, Japan. Available at: http://www.stat.go.jp/
328. Statistics Bureau, Japan, *Average weekly hours of work and aggregate weekly hours of work by major industry*.
Available at: http://www.stat.go.jp/data/roudou/report/2009/zuhyou/ft/a01100.xls
329. Statistics Bureau, Japan, *Employed person by agriculture and forestry or non-agriculture industries and status in employment and weekly hours of work for employed person at work in non-agricultural industries.*
Available at: http://www.stat.go.jp/english/data/roudou/zuhyou/1543.xls
330. Statistics Bureau, Japan, *Employed person by class of weekly hours of work.*
Available at: http://www.stat.go.jp/english/data/roudou/zuhyou/1547.xls
331. Statistics Bureau, Japan, *Employee in non-agricultural industries by number of persons engaged in enterprise and weekly hours of work (excluding government employee) – both sexes.*
Available at: http://www.stat.go.jp/data/roudou/report/2009/zuhyou/ft/a00801.xls
332. Statistics Bureau, Japan, *Labour, Chapter 12 of Statistical Handbook of Japan 2010.*
Available at: http://www.stat.go.jp/english/data/handbook/pdf/c12cont.pdf
333. Statistics Bureau, Japan, *Summary of Average Results for 2009 (I Basic Tabulation).*
Available at: http://www.stat.go.jp/english/data/roudou/report/2009/pdf/summary1.pdf
334. Statistics Bureau, Japan, *Summary of the April 2011 Survey Results.*
Available at: http://www.stat.go.jp/english/data/roudou/154.htm
335. Statistics Canada. Available at: http://www.statcan.gc.ca/
336. Statistics Canada (2009): *Labour Force Historical Review: 2009 (Table 028)*.
337. Statistics Canada (2011): *Employment, Earnings and Hours, April 2011*.
338. Stewart, A. (2006): *The Work Choices Legislation: An Overview*.
Available at: http://www.federationpress.com.au/pdf/WorkChoicesOverviewDec06.pdf
339. Stewart, A. (2008): *Making the Working World Better for Kids: A Report for the NSW Commission for Children and Young People*, NSW Commission for Children and Young People, December 2008. Available at:
http://kids.nsw.gov.au/uploads/documents/Making%20the%20working%20world%20work%20better%20for%20kids.pdf
340. Stewart, A. (2009): *Stewart's Guide to Employment Law* (2nd ed), Federation Press, 2009.
341. The Straits Times (2010): *Family-friendly work practices on the rise*, in The Straits Times, 31 December 2010. Available at:
http://www.straitstimes.com/BreakingNews/Singapore/Story/STIStory_619224.html
342. Tatom, J. (1980): "'Problem' of Procyclical Real Wages and Productivity", in *Journal of Political Economy*, Vol. 88, Issue 2, pp. 385-94. Available at:
http://econpapers.repec.org/article/ucpjpolec/v_3a88_3ay_3a1980_3ai_3a2_3ap_3a385-94.htm
343. THOMAS (The Library of Congress), the US. Available at: http://thomas.loc.gov/
344. Trade and Industry Department, Hong Kong. "What are SMEs?". Available at:
http://www.success.tid.gov.hk/english/lin_sup_org/gov_dep/service_detail_6863.html
345. The UK Statistics Authority. Available at: http://www.statisticsauthority.gov.uk/
346. The US Bureau of Labour Statistics. Available at: http://www.bls.gov/
347. The US Department of Labour (1950): *Brief History of the American Labour Movement*, The US Department of Labour.
348. The US Department of Labour (1997): *Report on American Workforce*, The U.S. Department of Labour.

349. The US Government Accountability Office. Available at: http://www.gao.gov/
350. The US Government Printing Office. Available at: http://www.gpo.gov/
351. Van Wanrooy, B., Buchanan, J. and Campbell, I. (2008): *When do we stop? Achieving maximum weekly working hours in Australia*. Available at: http://www.workplace.gov.au/NR/rdonlyres/7FD73B96-DFDA-42B8-A563-9968EC1E55D3/0/111WanrooyBuchananCampbell.pdf
352. Van Wanrooy, B., Jakubauskas, M. Buchanan, J., Wilson S., and Scalmer, S. (2008): *Working Lives: Statistics and Stories.* Available at: http://www.australiaatwork.org.au/index.php
353. Van Wanrooy, B., Wright, S., Buchanan, J., Baldwin S. and Wilson, S. (2009): *Australia at Work: In a Changing World*, Work Research Centre, University of Sydney. Available at: http://www.australiaatwork.org.au/index.php
354. Wage and Hour Division, Department of Labour, the US. Available at: http://www.dol.gov/whd/
355. Wells, J. (2011): *Flexible Work in 2010 – the impact of the Fair Work Act 2009 on employer control of, and employee access to, flexible working hours*. NT Working Women Centre. Available at: http://www.ntwwc.com.au/index.php/our_work_our_lives_2010
356. West, M. (2003): *Employment Market Institutions and Japanese Working Hours*, December 2003, University of Michigan Legal Working Paper Series, *the John M. Olin Center for Law & Economics Working Paper Series,* Working Paper 22. Available at: http://law.bepress.com/cgi/viewcontent.cgi?article=1022&context=umichlwps
357. Wheelright, K. (2001): "Legislative Review: Remedies for Unfair Dismissal Under the Workplace Relations Act 1996 – A Fair Go All Around?", in *Macquarie Law Journal* [2001] 8. Available at: http://www.austlii.edu.au/au/journals /MqLJ/2001/8.html#fn26
358. White, M. and Ghobadian, A. (1984): *Shorter Working Hours in Practice.* Policy Studies Institute, London.
359. Wong, G. and Picot, G. (2001): *Working Time in Comparative Perspective: Volume I: Patterns, Trends, and the Policy Implications of Earnings Inequality and Unemployment.* W.E Upjohn Institute for Employment Research.
360. Working Time Directive (Directive 2003/88/EC), the EU. Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:299:0009:0019:EN:PDF
361. Workplace Research Centre (2011): *Hours of Work – usual and unpaid*, Australia At Work fact sheets, University of Sydney Business School. Available at: http://australiaatwork.org.au/assets/02.%20Hours%20of%20work.pdf
362. World Bank Database. Available at: http://data.worldbank.org/data-catalog
363. Yamakawa, R. (1994): *Recent Developments Regarding Child and Elder Care Leave in Japan*, Special Topic, Vol. 33, No.10, 1 October 1994. JILPT. Available at: http://www.jil.go.jp/jil/bulletin/year/1994/vol33-10/05.htm
364. Yamakawa, R. (1998): *Overhaul After 50 Years: The Amendment of the Labour Standards Law,* Special Topic, Vol. 37, No. 11, 1 November 1998. JILPT. Available at: http://www.jil.go.jp/jil/bulletin/year/1998/vol37-11/04.htm
365. Yoichi, S. (2004): *Working Hour Schemes for White-Collar Employees in Japan*, Japan Labour Review, Vol. 1, No. 4, Autumn 2004. JILPT. Available at: http://www.jil.go.jp/english/JLR/documents/2004/JLR04_shimada.pdf
366. Yuan, K. & Hutchinson, Z. (2011): *The Fair Work act and 'Flexibility' Clauses: AWAs In Another Guise?* Available at: http://www.ntwwc.com.au/ index.php/our_work_our_lives_2010
367. 中國勞動觀察，《中國農民工 2010 年度工作條件調查報告》，2010 年 3 月。

368. 中華人民共和國人力資源和社會保障部網，《2010 年度人力資源和社會保障事業發展統計公報》，2010 年 7 月 20 日。 網址：http://www.mohrss.gov.cn
369. 中華人民共和國中央人民政府網，《中華人民共和國行政區劃》，2005 年 6 月 15 日。網址：http://www.gov.cn/test/2005-06/15/content_18253.htm
370. 中華人民共和國中央人民政府網，《中華人民共和國國務院》，2005 年 7 月 29 日。網址：http://www.gov.cn/test/2005-07/29/content_18203.htm
371. 中華人民共和國中央人民政府網，《中華人民共和國憲法》。網址：http://www.gov.cn/gongbao/content/2004/content_62714.htm
372. 中華人民共和國中央人民政府網，《全國年節及紀念日放假辦法》，2008 年 2 月 26 日。網址：http://big5.gov.cn/gate/big5/www.gov.cn/test/2008-02/26/content_901723.htm
373. 中華人民共和國中央人民政府網，《我國工作時間制度是甚麼?》，2005 年 7 月 4 日。網址：http://big5.gov.cn/gate/big5/www.gov.cn/banshi/2005-07/04/content_11954.htm
374. 中華人民共和國中央人民政府網，《甚麼是工作日？工作日有哪些種類？》，2005 年 7 月 4 日。網址：http://www.gov.cn/gongbao/content/2004/content_62714.htm
375. 中華人民共和國國家統計局數據
376. 台灣《20 世紀 30 年代中國「工廠法」的頒行及其社會影響》，張忠民，上海社會社會科學院經濟研究所，《近代中國：經濟與社會研究》，上海：復旦大學出版社，2006 年 6 月。
377. 台灣《工時法制論》，李仁淼，台灣中正大學法律學系，2001 年 7 月 25 日。網址：http://grbsearch.stpi.narl.org.tw/GRB/GetFile?path=pdf%5C90%5C902414H194029.pdf&dir=1&downloadFile=902414H194029.pdf&projkey=PF9105-0088&pnchDesc=%E5%B7%A5%E6%99%82%E6%B3%95%E5%88%B6%E8%AB%96&ref_key=RN9511-2592&externalSource=
378. 台灣《民國北京政府的勞動立法初探》，饒東輝，《近代史研究》1998 年第 1 期，中國社會科學院近代史研究所。網址：http://jds.cass.cn/UploadFiles/zyqk/2010/12/201012091606427986.pdf
379. 台灣《立法會公報》，1975 年，第 64 卷 第 93 期 847 號，第 2 至 8 頁。網址：http://lis.ly.gov.tw/ttscgi/lgimg?@6456930002;0001;0008
380. 台灣《立法會公報》，1994 年，第 83 卷 第 30 期 2704 號，第 94 至 99 頁。網址：http://lis.ly.gov.tw/ttscgi/qrimg?@833001;0094;0099
381. 台灣《立法會公報》，1996 年，第 85 卷 第 51 期 2873 號，第 29 至 51 頁。網址：http://lis.ly.gov.tw/lgqrc/lgqrkm1?9^1055258491^15^^^855103^29-52^85 卷 51 期@@1055258491
382. 台灣《立法會公報》，1996 年，第 85 卷 第 65 期 2887 號，第 36 至 40 頁。網址：http://lis.ly.gov.tw/ttscgi/lgimg?@856501;0036;0040
383. 台灣《立法會公報》，1997 年，第 86 卷 第 40 期 2932 號，第 141 至 204 頁。網址：http://lis.ly.gov.tw/lgqrc/lgqrkm1?5^859844565^15^^^864003^141-204^86 卷 40 期@@859844565
384. 台灣《立法院公報》，2000 年，第 89 卷 第 35 期 3094 號，第 35 頁。網址：http://lis.ly.gov.tw/lgqrc/lgqrkm1?18^1971816012^15^^^893501^25-36^89 卷 35 期@@1971816012
385. 台灣《立法會公報》，2000 年，第 89 卷 第 39 期 3098 號，第 208 至 225 頁。網址：http://lis.ly.gov.tw/lgqrc/lgqrkm1?5^859844565^15^^^893901^208-225^@@859844565
386. 台灣《立法會公報》，2002 年，第 91 卷 第 75 期 3271 號，第 43 至 85 頁。網址：http://lis.ly.gov.tw/ttscgi/lgimg?@917502;0043;0085

387. 台灣《協調破裂　王金平：84 小時就此定案》，中時電子報，2000 年 12 月 29 日。
網址：http://forums.chinatimes.com/special/working/89122901.htm
388. 台灣《政院通過縮短法定工時爲 44 小時》，《台灣立報》，2000 年 6 月 15 日。
網址：http://www.lihpao.com/?action-viewnews-itemid-50019
389. 台灣《針對縮減工時　立委提出多項配套》，《台灣立報》，2000 年 6 月 20 日。
390. 台灣《國民黨政府時代的勞動彈性化政策》，楊偉中。
網址：http://enews.url.com.tw/enews/29873
391. 台灣《勞動基準法部分條文修正草案》，1991 年，41 至 81 頁。
網址：http://lis.ly.gov.tw/lgcgi/lgmeetimage?cfcec7c8cfcccfcfc5c7cdd2cecdcd
392. 台灣《勞動基準法與兩性工作平等法立法背景與過程比較》，邱意玲，台灣成功大學，《勞動基準法與兩性工作平等法立法之比較：性別觀點的分析》，第 36 至 49 頁，2005 年 6 月。網址：
http://etdncku.lib.ncku.edu.tw/theses/available/etd-0815105-125357/user_define/etd-0815105-125357.pdf
393. 台灣《勞資會議實施辦法》。網址：http://laws.cla.gov.tw/Chi/FLAW/FLAWDAT0202.asp
394. 台灣《經濟發展委員會議實錄》。網址：http://theme.cepd.gov.tw/president/home.htm
395. 台灣《縮短工時 政見跳票測試新政府的施政能力》，工商時報，2000 年 5 月 16 日。
396. 台灣《縮短工時 經部勞委會不同調》，中國時報，2000 年 5 月 30 日。
397. 台灣《縮短工時 誰輸誰贏? 新政府上台後第一場勞資戰爭的檢討》，鄭谷雨。
網址：http://linkage.ngo.tw/politicalreview/politicalreview0302.htm
398. 台灣《縮短工時案　政院版又變調》，台灣立報，2000 年 11 月 23 日。
399. 台灣《縮短工時增訂日出條款 在野立委抨擊行政院》，工商時報，2000 年 7 月 18 日。
400. 台灣《簡論 1929 年的「工廠法」》，彭南生，安徽史學 2006 年第 4 期。
網址：http://www.xhgmw.org/archive-53934.shtml
401. 台灣「考試院」。 網址：http://www.mocs.gov.tw/
402. 辛廸，＜中國消費市場起革命－五天工作制下的中國＞，《廣角鏡月刊》，1995 年 6 月，80 至 81 頁。
403. 東北師範大學人文學院法律系網，《最高工時制度》，2010 年 12 月 1 日。
網址：http://law.chsnenu.edu.cn/news.asp?id=149&code=O
404. 原勞社部保障政策法規庫，《關於職工工作時間有關問題的覆函》，1997 年 9 月 10 日。
網址：http://trs.molss.goc.cn/was40/mainframe.htm
405. 國務院法制辦公室網：《勞動部關於貫徹執行<中華人民共和國>若干問題的意見》，1995 年 8 月 4 日。網址：http://fgk.chinalaw.gov.cn
406. 國務院發展研究中心資訊網，《關於我國現代化面臨形勢和任務的若干思考（中）》，2011 年 3 月 22 日。
網址：http://www.drcnet.com.cn/drcnet.channel.web/expert/showdoc.asp?doc_id=200329
407. 傅麟、吳萬雄，《中國勞動關係的轉型和發展》。
網址：http://hrda.tidi.tw/picture/com_data/big5/20110321-17-1.pdf
408. 新浪新聞網，《中國勞動保障監察發展軌跡》，2011 年 2 月 28 日。
網址：http://archive.news.sina.com.tw
409. 新華網，《究竟誰來決定勞動工作時間？》，2008 年 4 月 1 日。
網址：http://news.xinhuanet.com/theory/2008-04/01/content_7895095.htm
410. 楊琳，<勞動監察要突破甚麼>，《瞭望新聞周刊》，2011 年第 9 期，35 至 36 頁。
411. 衛民，<2008 年中國勞動三法的內容分析>，《台灣勞動評論》，第一卷第二期，2009 年 12 月，115 至 143 頁。

412. 澳門工會聯合總會，《文職人員問卷調查分析報告昨發佈》，2011 年 2 月 1 日報導。網址： http://www.faom.org.mo/web/?action-viewnews-itemid-6937
413. 澳門全澳中小企經營現況調查報告。網址：http://www.myea.org.mo/download/report.pdf
414. 澳門行政暨公職局。網址：http://www.safp.gov.mo/default.asp
415. 澳門法務局。網址：http://www.dsaj.gov.mo/MainFrame.aspx?lang=zh-TW
416. 澳門社會工作局。網址：http://www.ias.gov.mo/
417. 澳門金融管理局。網址：http://www.amcm.gov.mo/cIndex.htm
418. 澳門特別行政區立法會。網址：http://www.al.gov.mo/
419. 澳門特別行政區於 2009 年 6 月 25 及 26 日舉辦「新勞動關係制度研討會」的報告。
420. 澳門統計暨普查局。網址：http://www.dsec.gov.mo/default.aspx
421. 澳門麥瑞權（澳門經濟學會會員），《新經濟環境下本澳傳統微企之現狀》。網址：http://www.acemacau.org/book/book29/p032.pdf
422. 澳門勞工事務局。網址：http://www.dsal.gov.mo/chinese/organize.htm
423. 澳門勞動關係法（第 7/2008 號法律）
424. 澳門貿易投資促進局。網址：http://www.ipim.gov.mo/
425. 澳門新聞局。網址：http://www.gcs.gov.mo/
426. 澳門經濟局。網址：http://www.economia.gov.mo/index.jsp
427. 饒東輝，《南京國民政府勞動立法研究》，華中師範大學研究所碩士論文，1997 年。

Prepared by the
Labour Department of
the Hong Kong Special Administrative Region Government

This study is produced to facilitate discussion by the community only. While every effort has been made to ensure the accuracy of the content of this report, in view of the long historical development of the subject, the diversity of economies studied and that not all information is readily available, the HKSAR Government shall not be liable for any errors, misrepresentations or omissions that may remain.

For enquiries on standard working hours, please email to enquiry@labour.gov.hk.

Printed by the Government Logistics Department

Enclosure 2

Manpower Resources for the Working Hours Policy

Introduction

The policy study of SWH was previously conducted by a temporary team re-deployed from other divisions in LD on a short-term basis. With the Special committee soon to be set up to follow up on the study, it is proposed that a dedicated team be formed in LD to provide support to the Special Committee and undertake other SWH-related duties.

2. The team will provide secretariat support to the Special Committee, follow up on the deliberations and recommendations thereof as appropriate; spearhead in-depth policy researches and formulation; organise consultations; and launch public awareness and education campaigns, etc. Furthermore, the team will assist the Special Committee in analysing the views from stakeholders for the Special Committee's reference in the deliberation of policy direction. This will ensure that the measures proposed by the Special Committee can meet the aspirations of different sectors.

Need for a Supernumerary Post of Chief Labour Officer

3. Accomplishing the tasks mentioned in paragraph 2 above would require a directorate officer with sound understanding of the labour scene and foresight to tactfully handle this technical and complex subject. Given the complexity and sensitivity of SWH and its significant consequences on the local economy and labour market, we propose to create a supernumerary post of CLO for a period of three years to lead the proposed team in carrying out the above-mentioned tasks. The need to further extend the duration of the post will be considered taking into account the future development of the issue.

4. The job description of the proposed CLO post is at the **Annex**.

Alternatives Considered

5. We have critically examined the possibility of redeploying existing directorate staff in LD to absorb the duties of the proposed CLO post. As all the existing directorate staff are over-stretched in their own schedule of policy and operational duties, it is operationally not possible for them to take up the

tasks in view of the enormity involved in working hours policy without adversely affecting the discharge of their current duties.

Financial Implications

6. The proposed creation of the CLO post will bring about an additional notional annual salary cost at mid-point of $1,428,600. The full annual average staff cost, including salaries and on-cost, is projected to be $1,754,628. We will include the necessary provision in the draft Estimates of 2013-14 and the subsequent years to meet the cost of this proposal and the supporting staff required.

Annex

Job Description of the Proposed CLO Post

Rank **:** Chief Labour Officer (D1)

Responsible to **:** Assistant Commissioner for Labour (Policy Support)

Main Duties and Responsibility:

1. To head the proposed new dedicated team responsible for working hours policy;
2. To serve as the Secretary to the Special Committee on Standard Working Hours (Special Committee) and to oversee the secretariat support to the Special Committee;
3. To organise public consultations and public awareness and education promotion activities conducted by the Special Committee;
4. To oversee further in-depth policy researches;
5. To map out and coordinate critical assessment of the implications of the working hours policy on the overall economy and labour market (particularly on the small and medium enterprises); and
6. To follow up the deliberations of the Special Committee as appropriate.