



LABOUR DEPARTMENT (Headquarters)

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14 July 2014

Clerk to Panel on Constitutional Affairs
Legislative Council
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong
(Attn: Ms Joanne Mak)

(Fax : 2509 9055)

Dear Ms Mak,

**Legislative Council Panel on Constitutional Affairs
Follow-up to the meeting on 16 June 2014**

At the meeting of the Panel on Constitutional Affairs held on 16 June 2014, a Member expressed her views on the present non-alignment of statutory holidays (SHs) with general holidays (GHs), and asked whether it was in contravention of Article 7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). The Government's response is provided in the ensuing paragraphs.

Under the Employment Ordinance, Cap. 57 (EO), an employee is entitled to 12 days of SHs in a year regardless of his length of service or the sector in which he is engaged. SHs must be with pay if the employee has been employed under a continuous contract¹ for not less than three months. On the other hand, under

¹ Under EO, an employee who has been employed continuously by the same

the General Holidays Ordinance (Cap. 149), GHs are days on which banks, educational establishments, public offices and government departments need not open. There are 17 days of GHs other than Sundays in a year and they are primarily holidays for the relevant establishments.

Employers, irrespective of trades, are statutorily obliged under EO to grant SHs to all their employees. They are, however, not required by law to arrange day-offs for their employees during GHs. Whether an employee has day-offs on GHs is a matter agreed between the employer and the employee concerned rather than a statutory requirement. As a matter of practice, some individual employers grant GHs to their employees as a term of employment.

The different statutory requirements for SHs and GHs are not in contravention of Article 7 of ICESCR.

Yours sincerely,



(Charles Hui)
for Commissioner for Labour

c.c. Secretary for Constitutional and Mainland Affairs (Attn: Mr D C Cheung)
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employer for four weeks or more, with at least 18 hours worked in each week is regarded as being employed under a continuous contract.