



Hong Kong Federation of Asian Domestic Workers Unions

(Affiliated to HKCTU)

香港亞洲家務工工會聯會 (職工盟屬會)

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標準工時 人人有份 外傭本勞同爭取 工時規管方案 家務工又無份？

2017年1月，標準工時委員會向政府提交報告，竟提出一個排斥家務工的工時方案。現在，政府將方案落實，家務工連一個「紙老虎」式的工時保障也被剝奪。

標準工時委員會自2013年開始成立，「研究」、「諮詢」多年之後，現在連梁振英也即將下台，才「研究」出一個「無牙老虎」的「合約工時」方案。在方案之中，委員會建議政府立法要求所有僱傭關係都要簽訂合約，合約上須訂明工作時數及加班補償的工資率等等。

然而，眾所周知，僱主與僱員的關係強弱懸殊，僱主只要在合約上訂立苛刻的工時條款，大多數打工仔女敢怒不敢言。要求僱傭雙方簽訂合約的「合約工時」方案，只是「紙老虎」，無法改善三百多萬香港勞工的長工時問題。

方案還有一個魔鬼細節，政府特別表示，「合約工時方案」將不適用於不受「最低工資條例」保障的僱員。也就是說，留宿家務工，包括外籍家務工、「廿四陪月員」和留宿家務助理等等，將再一次被新的勞工保障排除在外。

家務工工時極長 我們何時才「有得抖」？

每天，家務工早早起床，便開始一天的工作。一天下來，幾乎都「無得抖」。一般而言，僱主很少會與僱員訂立工時的規矩。外籍家務工的工時根本沒有規管，合約上沒有訂明工時，政府也沒有恰當的指引。換言之，家務工其實是廿四小時候命。

政府一直強調外國有標準工時的地區，都不會保障家務工，對於有保障的國家的措施，卻絕口不提，明顯是有失偏頗。其實，例如加拿大便有多個省份保障家務工的工時政策，意大利、南非等地，都有值得參考的例子。僅將這些例子列為附表，呈交立法會。

住家家務工的標準工時應該包括：1. 標準工時；2. 超時工作報酬；3. 最低休息時間。這將能平衡工人的工作與休息需要，更保障其工作效率。

香港亞洲家務工工會聯會

2017年6月20日



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We are Human, We are Not Machine **New Working Hours Regulation exclude domestic workers**

20 June 2017

In January 2017, the Standard Working Hours Committee (SWHC) submitted a report to the government with a scheme excluding the domestic workers. The scheme is carried out now, domestic workers are excluded from an insubstantial protection of working hours. Again, domestic workers are made as third class workers.

SWHC was found in 2013. After years of “study” and “consultation”, even the CY Leung government is stepping down, it has finally come up a scheme of “contractual working hours” with no bite. In the scheme, SWHC suggested the government to pass a law requesting all the employment relationship should enact contracts with specified working hour and the overtime rate etc..

Nonetheless, as we all know, there is an unequal power between the employers and employees. The working hour clauses stipulated by the employers, no matter how harsh it is, most workers have no choice but accept. A scheme asking both parties of the employment to sign a contract stipulating the “contractual hours”, is merely a “paper tiger” with no bite. It cannot address the long working hour experienced by 3 million workers in Hong Kong.

There is another evil detail. Government made a special note - “contractual working hour” will not be applicable to employees excluded from the Minimum Wage Ordinance. That is to say, live-in domestic workers, including foreign domestic workers, 24-hour post-natal caretakers, live-in domestic assistants etc. are again excluded from the new labor protection.

All day cleaning your mess, when can we take a rest?

Everyday, domestic workers get up early to start working. After a day, barely can they rest. Normally, seldom do employers enact agreements on working hours with their employees. There is no regulation on foreign domestic workers’ working hour - neither is there clauses on their contract referring to working hour, nor appropriate guidelines from the government. In other words, domestic workers are working standby on 24 hours basis.

The government addressed that there are countries exclude domestic workers in their SWH regulations. However, there are countries regulating the working hours of domestic work, such as Canada, South Africa, Uruguay, and France etc. The selective information by the government shows an illusion that domestic workers’ cannot have SWH protection. Here, we attached a chart, which shows examples of working hours regulations for domestic workers in other countries.

The standard working hours for live-in domestic workers should include: (1) standard working hours; (2) overtime extra pay; and (3) minimum rest time. It makes a balance of work and life for the worker, and also ensures the quality of work.

各國家務工標準工時實施方案

Standard Working Hours Regulation on domestic work abroad

國家 / 地區 Country / Region	標準工時 Standard Working Hours	加班補水 Overtime Rate	其他安排 Other Arrangements
南非 South Africa	<p>1-5 days/week: 9/days or 45/ week</p> <p>6-7 days/week: 8/days or 45/ week</p> <p>一週一到五日： 每日9小時；每週45小時</p> <p>一週六到七日： 每日8小時；每週45小時</p>	<p>Employers must pay workers overtime at 1.5 times the normal wage.</p> <p>Alternatively, a worker may agree to receive paid time off.</p> <p>僱主須付正常工資1.5倍。或者工人可同意以有薪假期補償。</p>	<ul style="list-style-type: none"> Workers must have a meal break of 60 minutes after 5 hours work. Workers must have a rest period of <ul style="list-style-type: none"> 12 hours each day; and 36 consecutive hours each week (must include Sunday, unless otherwise agreed) <p>5小時工作後，工人須有60分鐘的飯鐘。</p> <p>工人須享有休息時間：</p> <ul style="list-style-type: none"> 每日12小時，及 每週連續36小時（須包括週日，或雙方同意的安排）
意大利 Italy	<ul style="list-style-type: none"> 40 hours per week for live-out workers and to 54 hours per week for live-in workers. 外宿工人：每週40小時 留宿工人：每週54小時 		<ul style="list-style-type: none"> The right to leave the house during the mandatory daily two hours break for live in workers Depend on Collective Bargaining agreement 留宿工人有權每日離家兩小時 視乎集體談判協議

烏拉圭 Uruguay	<ul style="list-style-type: none"> 8-hour work day, 44 hour work week, nine-hour rest period during the night for live-in workers, rest periods during the workday, a 36-hour weekly rest, 每日8小時，每週44小時。 留宿工人每日有9小時晚間休息時間 工作日休息時間 每週36小時休息 	<p>3. Night work: For work performed between 10 p.m. and 6 a.m., 25 per cent additional pay.</p> <p>4. Holiday pay: Employers must pay domestic workers 120 per cent of their net wages during their holiday.</p> <p>夜班：晚上10點至早上6點，25%補水。</p> <p>假期加班：在家務工假期時，僱主須付家務工120%的工資。</p>	<ul style="list-style-type: none"> Includes daily and weekly rest hours Depend on Collective Bargaining agreement 包括每日及每週休息時間 視乎集體談判協議
加拿大 Canada			
<ul style="list-style-type: none"> 安大略省 Ontario 	<ul style="list-style-type: none"> Max 48 hrs/week or 8 hours a day 最高每週48小時或每日8小時 	<ul style="list-style-type: none"> More than 8 hours a day or 48 hours a week - entitled to 1.5x rate 超過每日8小時或每週48小時則應有1.5倍工資 	
<ul style="list-style-type: none"> 不列顛哥倫比亞省 British Columbia 	<ul style="list-style-type: none"> Overtime pay is the extra rate of pay for time worked over either eight hours in a day, or 40 hours in a week. 每日8小時或每週40小時外的工作則可得到超時補水。 	<ul style="list-style-type: none"> Hours over 8/day = 1.5 x regular wage Hours over 12/day = 2 x regular wage Hours over 40/week = 1.5 x regular wage 超過每日8小時：1.5倍工資 超過每日12小時：2倍工資 超過每週40小時：1.5倍工資 	<ul style="list-style-type: none"> Unless there is an emergency, domestic workers must have at least eight hours free from work between shifts and 32 consecutive hours free from work each week. Domestic workers can be required to work a split shift; however, the split shift must end no later than 12 hours after it starts. 除非是緊急情況，工人在兩班中間須有8小時的工餘時間及每週連續32小時的工餘時間。僱主可要求家務工人輪班，然而輪班時間須在開始後12小時結束。

<ul style="list-style-type: none"> - 曼尼托巴省 - Manitoba 	<ul style="list-style-type: none"> - 40/week, 8/day - 每週40小時，每日8小時 	<ul style="list-style-type: none"> - Pay overtime wages for these hours (whether or not they are hours of overtime), or - Lengthen one of the rest periods by the number of hours worked within the next 8 weeks. - Domestic workers get overtime pay like other employees. Time that is free from work duties, such as eating, resting, sleeping, or attending to private business or interests, is not included in the calculation of overtime because it is not time that has been worked. - 付超時工資（不論是否超時時間）或 - 在八週內按照工作時間延長休息時間 - 家務工如其他僱員可得超時補水。但非工作時間，如進食、休息、睡覺、處理私人事務或興趣不算超時工作。 	<ul style="list-style-type: none"> - Employers must ensure domestic workers get 36 consecutive hours of rest each week where they are free from all work duties. - 僱主須確保家務工每週有連續36小時的非工作時間。
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