

**Motion on
“Reviewing the holiday policy”
at the Legislative Council meeting of 9 January 2019**

Progress Report

Purpose

At the Legislative Council meeting of 9 January 2019, the motion “Reviewing the holiday policy” moved by Hon POON Siu-ping, as amended by Hon HO Kai-ming, was passed. The wording of the motion is at [Annex](#). This report aims to inform Members of the progress of the work in this area.

The Victory Day of the Chinese People’s War of Resistance against Japanese Aggression

2. Regarding the motion on the proposal of designating the Victory Day of the Chinese People’s War of Resistance against Japanese Aggression (Victory Day) as statutory holiday, we would like to point out that the Hong Kong Special Administrative Region (HKSAR) Government has all along attached importance to the Victory Day. Since the designation of 3 September as the Victory Day by the Standing Committee of the National People’s Congress in 2014, the HKSAR Government has been holding official commemorative activities on 3 September every year, and, in collaboration with community organisations, organising various commemorative events such as commemorative ceremonies, concerts and thematic exhibitions, etc. to commemorate the Chinese People’s War of Resistance against Japanese Aggression and in remembrance of our martyrs and sacrificed compatriots. The year of 2015 marked the 70th anniversary of the victory of the Chinese People’s War of Resistance against Japanese Aggression. A range of large-scale commemorative activities were organised throughout the country and 3 September of 2015 was also designated as a National Holiday. The HKSAR Government also organised a number of commemorative activities that year and made a special arrangement to especially designate 3 September that year as both a general holiday and a statutory holiday, so as to facilitate community participation in these commemorative activities. The Government has no plan to designate this day as a regular statutory holiday.

Statutory holidays

3. As what the Government has all along emphasised, the statutory holidays under the Employment Ordinance (EO) and the general holidays under the General Holidays Ordinance (GHO) are stipulated for different purposes and are two completely different holiday regimes. EO provides for 12 days of statutory holidays each year, which are statutory benefits of employees. Therefore, all employees covered by EO, irrespective of their length of service and hours of work, are entitled to 12 days of statutory holidays. However, general holidays are stipulated under GHO on which banks, education establishments, public offices and Government departments need not operate. Although these establishments need not operate on general holidays, GHO does not oblige employers to grant their employees days-off on those days. In fact, some establishments covered by GHO have from time to time arranged their employees to work on general holidays. It shows that whether an employee has days-off on general holidays, same as other benefits not stipulated under EO, is a matter to be negotiated between individual employers and employees.

4. The Government has from time to time reviewed the labour legislation in the light of the changing social circumstances and the pace of economic development. The 12-day statutory holidays currently entitled by employees is a consensus gradually reached after extensive consultation in the community. Apart from the number of statutory holidays, the Government has also introduced different enhancement measures to the statutory holiday arrangements, including prohibiting payment in lieu of statutory holidays and, when Lunar New Year's Day, the second or third day of Lunar New Year, and the day following the Chinese Mid-Autumn Festival falls on a Sunday, designating the fourth day of Lunar New Year and the day after the day following the Chinese Mid-Autumn Festival as a holiday in substitution respectively.

5. In fact, the number of statutory holidays in Hong Kong compares favourably with those in the neighbouring places. According to the information obtained by the Labour Department on statutory holidays of neighbouring places, among those 12 economies, Hong Kong, Malaysia, the Philippines and Taiwan have 12 statutory holidays, sharing the second rank and coming just after Thailand, which has 13 statutory holidays. The Mainland, Singapore and New Zealand have 11 statutory holidays. Australia, depending on individual regions, has 10 to 13 statutory holidays. Macau has 10 statutory holidays. Though there are general holidays for Korea and Japan, the legislation of Korea stipulates 1 May as

the only paid statutory holiday for employees, while there is no statutory holiday for employees in Japan as an employee's entitlement to holidays is subject to the terms of employment contract.

6. EO is applicable to all employers irrespective of the industry, size and circumstances of individual establishments. The purpose of laying down employees' rights and benefits in EO is to accord basic protection to employees of various trades and occupations. On this basis, employers may provide their employees with benefits more favourable than those stipulated by EO, such as granting holidays better than those that are required under EO, having regard to their operational needs and individual circumstances, in order to attract and retain talents. We note that currently many employers, including the public and private organisations, subject to their individual circumstances, provide their employees with more favourable benefits than those stipulated by EO by granting their employees general holidays other than the statutory holidays.

7. Either designating the Victory Day as a statutory holiday or aligning the number of statutory holidays with general holidays would result in an increase in the number of statutory holidays. It would have considerable implications for employees and employers, not least for small-and-medium-sized enterprises, which comprise 98% of all employers, and for families employing over 380 000 foreign domestic helpers. As such, we have to fully evaluate and consult the community on these suggestions with a view to reaching a consensus taking into account the interests of both employers and employees. In fact, the Labour Advisory Board (LAB) has discussed the issue of increasing the number of days of statutory holidays for a number of times, but the employer and employee representatives have yet to reach a consensus on the matter.

Government to continuously improve the rights and benefits of employees

8. The current-term Government is determined to improve labour rights and benefits, and is addressing a number of paramount and challenging labour issues, including abolishing the arrangement for "offsetting" severance payment and long service payment with employers' mandatory contributions under the Mandatory Provident Fund system, and extending the statutory maternity leave of female employees

to 14 weeks. Besides, to strengthen the protection of occupational safety and health (OSH) for employees, we are conducting a review of the penalties for breaching OSH legislation. Not long ago, the Government had taken forward several proposals on employees' benefits, including amending the provisions on reinstatement or re-engagement order for unreasonable and unlawful dismissal, increasing the number of days of statutory paternity leave, raising medical expenses payable by employers in respect of injuries sustained by employees as a result of accidents arising out of and in the course of employment, and other regular and essential tasks such as the review of the Statutory Minimum Wage rate, etc. In considering improving employees' benefits, the Government must carefully take account of the interests of employees and the affordability of employers, and make an objective assessment of their feasibility, cumulative financial burden on employers and impact on society and economy.

Way forward

9. Through publicity and promotion, the Government will continue to encourage employers to adopt good human resource management practices and offer their employees benefits (including holidays) more favourable than those stipulated by EO, having regard to their actual circumstances and affordability.

Labour and Welfare Bureau
Labour Department
March 2019

(Translation)

**Motion on
“Reviewing the holiday policy”
moved by Hon POON Siu-ping
at the Council meeting of 9 January 2019**

Motion as amended by Hon HO Kai-ming

That the existing disparity between the number of general holidays and that of statutory holidays has resulted in varying numbers of holidays for employees; in this connection, this Council urges the Government to expeditiously review the outdated holiday policy, increase the number of statutory holidays to bring it on a par with that of general holidays so that all employees in Hong Kong are entitled to the same number of holidays, and designate the Victory Day of the Chinese People’s War of Resistance against Japanese Aggression as a statutory holiday.