

立法會 *Legislative Council*

LC Paper No. CB(1)1038/2025

Ref: CB1/BC/8/25

Report of the Bills Committee on Employment (Amendment) Bill 2025

Purpose

This paper reports on the deliberations of the Bills Committee on Employment (Amendment) Bill 2025 (“the Bills Committee”).

Background

2. Since the enactment of the Employment Ordinance (Cap. 57) (“EO”) in 1968, the “continuous contract” requirement has been put in place to establish the legal obligation of employers to offer employment benefits to employees who provide a relatively stable and considerable level of service. The current provision provides that employees employed by the same employer continuously for four weeks or more and having worked for 18 hours or more per week (commonly referred to as the “4-18” requirement) are regarded as being engaged under a “continuous contract”. Employees must be employed under a “continuous contract” and meet the relevant conditions under EO (e.g. length of service) in order to be entitled to various employment benefits (e.g. statutory holiday pay, paid annual leave, sickness allowance, statutory maternity leave, statutory paternity leave, severance payment and long service payment), otherwise they are only entitled to some basic protection under EO (e.g. payment of wages, restrictions on wage deductions and granting of statutory holidays). According to the current formulation, if an employee works less than 18 hours in a week, the week cannot be counted as part of a continuous employment period except under certain circumstances specified in EO.

3. In response to the calls from labour unions over the years to relax the “4-18” requirement to enhance labour protection, the Administration kick-started a review and initiated discussion with the Labour Advisory Board (“LAB”)¹ in 2022. Given

¹ LAB is a tripartite consultative body comprising representatives of employees and employers in equal number to advise the Commissioner for Labour on labour matters.

the limitations of the “4-18” requirement,² and in the face of the changes in the labour market, LAB has agreed to adopt the following principles for revising the “continuous contract” requirement:

- (a) amendments to EO provisions should be kept to the minimum to facilitate employers’ and employees’ adaptation;
- (b) the revised requirement should be easy to understand and operate for both employers and employees;
- (c) the changes should not affect the rights and benefits of employees currently meeting the “4-18” requirement; and
- (d) the existing eligibility criteria for various benefits under EO should remain unchanged.

4. In February 2024, LAB reached a consensus on the review of the “continuous contract” requirement, and recommended that the requirement be revised by using the aggregate working hours of four weeks as a counting unit and setting the four-week working hour threshold at 68 hours (i.e. the “4-68” requirement).

Employment (Amendment) Bill 2025

5. The Employment (Amendment) Bill 2025 (“the Bill”) was published in the Gazette on 11 April 2025 and received its First Reading at the Council meeting of 16 April 2025. The Bill seeks to amend EO to:

- (a) lower the threshold in respect of weekly working hours that is used in ascertaining whether contracts of employment are continuous contracts;
- (b) introduce an alternative criterion for such an ascertainment that is based on the number of working hours in a specified four-week period; and
- (c) provide for transitional arrangements.

6. The main provisions of the Bill are summarized in paragraph 12 of the Legislative Council Brief ([File Ref.: LD LRD/12-1/1-27\(C\)](#)) and paragraphs 4 to

² Some labour groups have alleged that there are employers circumventing the “4-18” requirement by wilfully reducing the working hours of their employees in any one of four weeks to less than 18 hours so the employees cannot meet the “4-18” requirement and thus are not entitled to the full range of employment benefits under EO.

8 of the Legal Service Division Report on the Bill ([LC Paper No. LS42/2025](#)). The Bill, if passed, would come into operation on the first Sunday after the expiry of six months after the day on which the enacted Ordinance is published in the Gazette.

The Bills Committee

7. The House Committee agreed at its meeting on 25 April 2025 to form a Bills Committee to scrutinize the Bill. Mrs Regina IP and Mr Dennis LEUNG have been elected Chairman and Deputy Chairman of the Bills Committee respectively. The membership list of the Bills Committee is in the [Appendix](#).

8. The Bills Committee has held one meeting with the Administration to study the Bill, and agreed that it is not necessary to hold a public hearing or invite written views from the public on the Bill.

Deliberations of the Bills Committee

9. The Bills Committee generally supports the Bill in revising the working hours threshold of the “continuous contract” requirement under EO to:

- (a) lower the weekly working hours threshold from 18 hours to 17 hours; and
- (b) provide an alternative of using the aggregate working hours in four weeks as a counting unit in which a week with less than 17 working hours be counted towards a continuous employment period if the sum of the working hours of that week and those of the three weeks immediately preceding that week reaches 68 hours.

Implementation of the proposed “continuous contract” requirement

10. Some members have pointed out that there are employers circumventing the “4-18” requirement, which has been put in place for years, by wilfully reducing the working hours of their employees in any one of four weeks to less than 18 hours so the employees cannot meet the “4-18” requirement and thus are not entitled to the full range of employment benefits under EO. While recognizing that the Bill would help plug loopholes in this regard, they do not rule out the possibility that some employers might devise some sort of work arrangement for their employees (e.g. by arranging for their employees to work 72 hours in the first week, followed by a total of 67 hours of work in the second to fourth weeks, and no work in the fifth week) with a view to circumventing the provision of additional employment

protection and benefits to their employees, especially those with relatively long average working hours per month.

11. Noting that the Bill would not be able to completely eliminate circumvention on the part of individual employers, members have suggested that the Administration should establish a mechanism to monitor, on an ongoing basis after the implementation of the amended EO, whether there would be employers circumventing the provision of more employment benefits to their employees by devising certain work arrangements, as well as the number of employees benefiting from the relaxed “continuous contract” requirement. It should also review the “continuous contract” requirement in a timely manner in the light of the latest labour market situation to ensure that employees’ rights and benefits are protected.

12. The Administration has advised that:

- (a) the new requirement proposed in the Bill would be more effective than the existing “4-18” requirement in protecting the rights and benefits of employees with relatively short working hours, and would significantly increase the cost and operational difficulties for employers to circumvent the “continuous contract” requirement. The Administration believes that the vast majority of employers will make proper work arrangements for their employees according to the actual operational needs;
- (b) the Administration will closely monitor the impact of the implementation of the amended EO on labour relations, including whether there will be an increase in the number of labour disputes or employment claims arising from “continuous contract” disputes; and
- (c) according to the findings of a previous survey, some employees not engaged under a “continuous contract” would be reluctant, for various reasons, to switch to jobs with longer working hours that meet the “continuous contract” requirement. To ascertain whether there will be changes in the employment situation of employees engaged under a “continuous contract” vis-à-vis employees not engaged under a “continuous contract” after the legislation is amended, the Administration plans to explore with the Census and Statistics Department (“C&SD”) the feasibility of carrying out a new round of Thematic Household Survey (“THS”).

Impact of the revision of the “continuous contract” requirement

13. Some members have expressed grave concern about the impact of the proposed amendments in the Bill on the operating costs of enterprises. They have pointed out that amid the current unfavourable economic environment and labour shortage, the relaxation of the “continuous contract” requirement will increase the operating pressure on some employers, with a particularly obvious impact on micro, small and medium-sized enterprises (“MSMEs”). There are suggestions that the Administration should monitor the operation of MSMEs in the six months after the implementation of the amended EO, and consider providing timely support to these enterprises.

14. According to the Administration, it is roughly estimated that if the “4-18” requirement is relaxed to the proposed new requirement, the number of employees to be benefited³ would approximately be 11 400 with an overall potential additional annual cost on businesses of around \$0.15 billion, representing only 0.02% of the total payroll expenditure in Hong Kong, which would be a limited impact on enterprises. The Administration therefore has no plan to provide cash subsidies to enterprises for the time being. Nevertheless, it will monitor the latest situation of labour relations after the implementation of the amended EO.

15. There is concern that as the proposed amendments in the Bill would improve the rights and benefits of employees with relatively short working hours, some employees working full-time may opt to switch to part-time jobs, thus aggravating the manpower shortages in certain industries, even with the possibility of prompting some employees to take up multiple part-time jobs in order to get multiple paid annual leave entitlements and other employment benefits.

16. The Administration has advised that:

- (a) the current legislative exercise aims to make it easier for employees to meet the revised “continuous contract” requirement and hence be able to enjoy comprehensive employment benefits. The eligibility criteria for different employment benefits under EO will remain intact (e.g. the entitlement of an employee to annual leave with pay for every period of 12 months of employment). In other words, in order to be entitled to benefits such as statutory maternity leave, statutory paternity leave and sickness allowance, employees who meet the revised “continuous

³ Employees to be benefited refer to employees meeting the threshold of the relaxed “continuous contract” requirement. As the benefits under EO are subject to different minimum periods of employment and other requirements, these employees would still be required to also meet the relevant criteria for a particular benefit in order to be entitled to the benefit.

contract” requirement would still be required to also meet the relevant criteria (including the periods of employment and other requirements) for such benefits under EO. It is not envisaged that a large number of employees would be entitled to the various benefits within a short time after the implementation of the amended EO; and

- (b) if an employee holds multiple part-time jobs with different employers at the same time, and each of the jobs meets the “continuous contract” requirement, the employee is theoretically entitled to paid annual leave and other employment benefits for each employment relationship on a separate basis. However, the employee’s income may not necessarily be higher than what he might otherwise earn from a single full-time job.

17. Some other members have remarked that according to the requirements of EO, the calculation of an employee’s annual leave pay is based on his average daily wages. Even if an employee holds multiple part-time jobs that meet the “continuous contract” requirement at the same time, the annual leave pay he receives will not multiply just because of that. These members consider that a full-time employee is very unlikely to switch to multiple part-time jobs for the purpose of getting more paid annual leave and other employment benefits.

18. Members have enquired about the impact of the revision of the “continuous contract” requirement on the unleashing of labour force. The Administration has advised that according to the findings of a THS published by C&SD in June 2019 on the desire of economically inactive persons to take up jobs, out of some 100 000 economically inactive persons aged 15 to 69, about 60 000 to 70 000 people (including female homemakers aged 30 to 59 and early retirees aged 50 to 64) indicated that they would be willing to take up jobs if being offered suitable employment. The Administration believes that the appropriate lowering of the working hours threshold will lead to improvements in the rights and benefits of employees with relatively short working hours, and this will convey a positive message conducive to attracting some individuals to re-enter the labour market and alleviating the pressure of manpower shortages faced by employers.

Publicity and promotion

19. Pointing out that many employees, in particular grass-roots employees, do not have sufficient knowledge of the “continuous contract” requirement and the related employment benefits, members have enquired about the Administration’s publicity and promotion campaign to enhance employers’ and employees’ awareness of the revised “continuous contract” requirement as well as their rights, benefits and obligations. There are suggestions that the Administration should arrange for the distribution of promotional leaflets at the workplaces of grass-roots

employees, and step up publicity among grass-roots women in collaboration with women's groups in the districts.

20. The Administration has responded that while the current revision appears to be a minor one, it is a fundamental change to the "4-18" requirement which has been in place for years, and therefore comprehensive publicity is particularly important. The Administration will disseminate clear messages to employers and employees to clarify misunderstandings, and make good use of existing platforms and networks (including channels such as industry-based tripartite committees, human resources managers' clubs, trade unions and chambers of commerce) to carry out extensive publicity and promotion, so as to ensure that both employers and employees are aware of the new arrangements. The Administration also notes and will follow up members' suggestions about publicity channels. Besides, it will develop simple tools to facilitate employers' and employees' understanding of the new requirement.

Commencement arrangement

21. Clause 1(2) of the Bill provides that the enacted Ordinance would come into operation on the first Sunday after the expiry of six months after the day on which it is published in the Gazette. Pointing out that it was in early 2024 that LAB reached a consensus on the amendments proposed in the Bill, and that some employers and employees are already prepared for the implementation of the proposed amendments, some members have requested the Administration to explain why it is proposed that the enacted Ordinance should come into operation six months after the day on which it is published in the Gazette.

22. The Administration has explained that the Bill puts forth an important revision of the "continuous contract" requirement under EO by proposing not only to lower the weekly working hours threshold of the existing "continuous contract" requirement, but also to introduce an alternative of using the aggregate working hours in a specified four-week period as a counting unit. To enable employers and employees to fully understand the proposed new requirement, a comprehensive publicity and promotion campaign will be launched before the implementation of the amended EO. It will also take time for employers to update their payroll systems and make related arrangements in preparation for the implementation of the proposed new requirement. In this regard, the Administration proposes that the enacted Ordinance (if the Bill is passed) should come into operation on the first Sunday after six months upon its gazettal.

Introducing an alternative criterion of using the aggregate working hours in four weeks as a counting unit

23. Clause 3(1) of the Bill seeks to add a new paragraph 2A to the First Schedule to EO to revise the existing "4-18" requirement for the purposes of a "continuous

contract”, and to introduce an alternative criterion for ascertaining the “continuous contract” requirement based on the number of working hours in a specified four-week period. Under the proposed new paragraph 2A(1)(b) of the First Schedule to EO, a week would not count for the purposes of paragraph 2 of the First Schedule to EO unless the employee (i) has been employed by the employer concerned during the period of three weeks next preceding that week; and (ii) has worked for 68 hours or more in the period comprising that week and the three weeks described in (i) above.

24. Members have enquired whether the Administration will consider amending the proposed new paragraph 2A(1)(b)(i) of the First Schedule to EO by revising “during the period of three weeks next preceding that week” to “during the period of three weeks next preceding that week, or the period of three weeks immediately following that week”, with a view to providing more comprehensive protection for employees.

25. The Administration has advised that since a specified four-week period would be used as a unit for calculating working hours under the proposed new requirement, if both the period of three weeks preceding and the period of three weeks following a particular week are taken into account at the same time, four specified combinations of “four weeks” overlapping each other would come into play. The use of such four specified combinations of “four weeks” to calculate working hours might result in an employee meeting the “continuous contract” requirement in certain combinations but not meeting it in other combinations, thus giving rise to inconsistency of calculation results. In the Administration’s view, the above method of calculating working hours is not only difficult to operate but also prone to causing confusion and disputes. The current proposal of using the period comprising a week and the three weeks next preceding that week as a unit for calculating working hours under the Bill can ensure consistency of calculation results, is easy to understand and operate for both employers and employees, and is in line with established legal principles.

Transitional arrangements

26. Clause 3(1) of the Bill also provides for transitional arrangements. Under the proposed new paragraph 2A(2) of the First Schedule to EO, a week falling within either of the following descriptions would not count for the purposes of paragraph 2 of the First Schedule to EO unless the employee has worked for 18 hours or more in that week—

- (a) a week beginning before the date on which the enacted Ordinance (if the Bill is passed) comes into operation (“pre-amendment week”);
- (b) a week that is one of the first three weeks immediately following the last pre-amendment week.

27. Members have enquired about the reasons for the Administration to propose the above transitional arrangements. The Administration has advised that:

- (a) the proposed new paragraph 2A(2) of the First Schedule to EO seeks to provide that in the first three weeks following the implementation of the amended EO (“transitional period”), the weekly working hours threshold of the “continuous contract” requirement shall remain at 18 hours, which is the same as the existing requirement;
- (b) as far as the proposed new paragraph 2A(1)(b) of the First Schedule to EO is concerned, the absence of a transitional period would make it necessary for the number of working hours in the period of three weeks before the commencement of the amended EO to be counted towards the working hours threshold, which might give rise to the issue of retrospectivity; and
- (c) if the proposed new paragraph 2A(1)(a) (which seeks to lower the weekly working hours threshold from 18 hours to 17 hours) and the proposed new paragraph 2A(1)(b) of the First Schedule to EO were to become applicable at different times, operational confusion would easily arise.

Amendments to the Bill

28. Neither the Bills Committee nor the Administration will propose any amendments to the Bill.

Resumption of Second Reading debate

29. The Bills Committee has completed the scrutiny of the Bill, and has no objection to the resumption of the Second Reading debate on the Bill at the Council meeting of 18 June 2025 as proposed by the Administration.

Consultation with the House Committee

30. The Bills Committee reported its deliberations to the House Committee on 6 June 2025.

Bills Committee on Employment (Amendment) Bill 2025

Membership list

Chairman Hon Mrs Regina IP LAU Suk-yee, GBM, GBS, JP

Deputy Chairman Hon Dennis LEUNG Tsz-wing, MH

Members Hon KWOK Wai-keung, BBS, JP
Hon SHIU Ka-fai, BBS, JP
Hon LUK Chung-hung, JP
Hon Doreen KONG Yuk-foon
Hon CHAU Siu-chung
Hon LAM Chun-sing
Hon Benson LUK Hon-man
Dr Hon NGAN Man-yu

(Total: 10 members)

Clerk Ms Jessica CHAN

Legal Adviser Miss Emily MOK