

# Policy Study on Standard Working Hours – an Overview

## Introduction

The Labour Department released the “Report of the Policy Study on Standard Working Hours” (SWH) on 26 November 2012. The study aims to provide a solid and objective basis for an informed and in-depth discussion on the important subject of SWH, and stimulate the exchange of views among people from different sectors for reference and follow-up by the Standard Working Hours Committee.

This pamphlet is a succinct summary of the study findings and sets out a number of key issues that need to be discussed in depth among employees, employers and the community at large before we explore the way forward.

## The Policy Study

The policy study covers the following three major areas:

- (1) the regimes and experience of other places<sup>1</sup> in regulating working hours;
- (2) the latest working hours situation of employees in various sectors of Hong Kong<sup>2</sup>; and
- (3) assessment of the possible impact of introducing SWH in Hong Kong.

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<sup>1</sup> These places include Singapore, Republic of Korea, Japan, the Mainland, Macao, Taiwan, Australia, the European Union, the United States and Canada.

<sup>2</sup> The statistics on the number of employees in this pamphlet are rounded to ten thousand, please refer to the “Report of the Policy Study on Standard Working Hours” for detailed figures.



## (1) Regimes and Experience in Other Places

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Working hours policy can achieve different objectives. The adoption of different objectives will result in different regime designs. Understanding the key components of a working hours regime is very important for the discussion of its pros and cons. Experience in other places shows that a working hours regime comprises at least five essential components:

- (1) Standard or maximum working hours limit
  - Standard hours limit stipulates the number of hours that employees work on a daily and/or weekly basis. When employees work beyond the limit, employers have to give overtime pay.
  - Maximum hours limit introduces statutory limits on daily and/or weekly working hours. If the number of total hours worked reaches the limit, any work should be stopped, regardless of whether overtime pay would be given.
- (2) Overtime limit and overtime pay
  - Overtime limits may be set by reference to fixed timeframes of a day, a week, or an even longer time. Overtime hours may normally be compensated by overtime pay at a premium rate, or by time-off/compensatory rest period, or both.



- (3) Exemptions
- All regimes set criteria according to their own needs for exempting certain employees from working hours regulation, such as making exemptions by occupation or job responsibility, by salary level, by industry or sector, etc. The most common form of exemption is by occupation or job responsibility. Managerial, supervisory or professional work, government employees, domestic workers, surveillance or intermittent work, etc. are common examples of exemption.
- (4) Flexibility arrangements
- Flexibility arrangements allow for variations in hours of work to cater for the very diverse operational needs of different industries and occupations. The common forms of flexibility arrangements include:
    - allowing the statutory hours limit to be averaged over a certain period of time called “reference period” (e.g. two weeks, one month or an even longer time);
    - tailor-made working hours systems for specific industries or occupations; and
    - allowing employees to opt out from the working hours limit.
- (5) Rest period
- Rest period, which aims to safeguard employees’ safety and health, usually takes these forms:
    - rest breaks within a working day;
    - daily rest periods between two consecutive working days; and
    - a weekly rest day.

Although SWH may promote employees' rights and benefits, we should give due regard to the following issues:

- A lengthy and controversial process of consensus building – Polarised views of different sectors on SWH often result in negotiation deadlock which impedes prompt legislation and implementation.
- Disputes over key legal definitions – With the multiplicity in working patterns, working hours legislation may give rise to disputes that have to be resolved in court. For example, arguments over working hours definition and exemption criteria may result in an increase in labour disputes.

**Definition of “working hours”** – According to the experience in other places, the definition of “working hours” generally comprises the important element of “the time during which the employee is at the disposal of the employer”. Some governments provide guidelines to assist employers and employees to determine whether certain situations fall within or outside the definition of working hours (such as “on-call” time and rest period, etc).

In the European Union, “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. However, most places do not stipulate rest breaks, and for that matter meal breaks, as working hours.

- Possible wage reduction resulting from shorter working hours – Concerned about cost increase, some employers may no longer require employees to work overtime but instead go for other means such as employing part-time workers and making use of automation, etc. This may result in wage shrinkage, particularly for lower-skilled workers in elementary occupations.

- Implications for small and medium enterprises (SMEs) and their employees – Implementation of SWH may impact strongly on SMEs’ operational flexibility, competitiveness and operating costs. Should there be special measures designed for SMEs such as phased SWH implementation, we need to resolve the issues of unfair treatment for employees of SMEs.
  
- Impact on actual working hours – While it is a common perception that SWH would be conducive to reducing overall working hours, one ought to be aware that long working hours is a very complex issue associated with structural economic change, labour market, or even the social and cultural dimensions of individual economies. Hence, SWH may not substantially reduce the actual working hours of employees as some would expect.
  
- Enforcement challenges – Given the wide coverage of employees but limited manpower for enforcement, governments in general adopt a reactive approach in dealing with non-compliance issues. The gap between the legislative requirements and the highly dynamic workplace operations, as well as the penetration of information technology also contribute to greater enforcement challenges.

## **(2) Overview of the Working Hours Situation in Hong Kong**

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### **(I) A Macroeconomic Background**

- Hong Kong is a service-oriented economy. Owing to operational needs and for maintaining competitive edge, higher-skilled workers in professional services tend to work longer hours, so do service and shop sales workers engaged in consumption-related sectors.

- Hong Kong's labour market structure is also open and flexible, as partly reflected by the dominance of full-time employment. Working hours tend to lengthen to sustain output growth amid employment loss during recessions. In the longer term, working hours could play a more prominent role in economic growth because of the ageing population.

## **(II) Working Hours Situation in Hong Kong**

- Based on a technical combination of the datasets of a General Household Survey and an Annual Earnings and Hours Survey conducted by the Census and Statistics Department, the average and median weekly total working hours for all employees in Hong Kong in 2011 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.
- Of the 2.81 million employees in 2011 (excluding government employees and live-in domestic workers), it is estimated that 0.66 million (23.4% of all employees) performed overtime work. Among them, 0.34 million (51.8%) had their overtime work compensated by either paid overtime or time-off in lieu, while the remaining 0.32 million (48.2%) received no compensation at all. The former were mainly lower-skilled workers, while the latter were mainly higher-skilled employees including managers, administrators and professionals, etc.
- Six sectors were identified as long-working-hours sectors (i.e. with more employees having long working hours in absolute or proportionate terms when compared with the overall labour market), namely: (1) retail; (2) estate management and security; (3) restaurants; (4) land transport; (5) elderly homes; and (6) laundry and dry cleaning services. These sectors engaged 0.69 million full-time employees with the average weekly hours estimated at 54.6.

## **(3) Economic Implications and Static Impact Assessment**

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- The Government conducted a static cost impact assessment based on three policy parameters, namely: weekly SWH threshold (from 40 to 48 hours), statutory minimum overtime pay rate (from 1.0 to 1.5 times), and exemption criteria with regard to employees (such as exempting higher-skilled employees). By altering these three policy parameters, various scenarios were generated and tested.

- It is important to note that the figures from the cost impact assessment are no more than rough estimates and serve only as a broad reference. The actual impact, which depends on the policy design and employers' response under the prevailing economic and labour market situations, has to be further assessed.
- Without any exemption, it is estimated that with an SWH threshold of 40 hours per week, the number of affected employees would reach 2.38 million, representing 91.1% of the 2.61 million full-time employees (again excluding government employees and live-in domestic workers). If the weekly threshold is increased to 44 or 48 hours, 1.86 million or 1.32 million employees would be affected respectively.
- However, if higher-skilled employees are exempted from the SWH policy, the number of affected employees would be reduced noticeably to 0.96 million (weekly threshold of 48 hours) or 1.43 million (weekly threshold of 40 hours).
- The study also indicates that, without any exemption, 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). If exemption is considered, the numbers in question would be reduced substantially. The cost impact of SWH implementation can vary significantly under different combinations of policy parameters. Likewise, the number of affected employees and the increase in the total wage bill could also vary significantly. By contrast, increase in total wage bill incurred by compliance with the initial statutory minimum wage rate (at \$28 an hour) was about \$3.3 billion.
- Employers might hence adopt different strategies to offset increase in labour costs, by raising product/service prices to shift the higher costs to consumers; restructuring employment through reduced working hours, etc. For employees, the impact of implementation of SWH on their individual income is unknown. In view of the complexity of policy design, it is crucial for the community to have an in-depth understanding of SWH policy and to study its short-term and long-term social and economic implications.

## Implementing Working Hours Regimes: Pros and Cons

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Pros	Cons
<ul style="list-style-type: none"><li>● Safeguarding employees' safety and health by reducing the long working hours of some employees.</li></ul>	<ul style="list-style-type: none"><li>● Hampering the operational flexibility of businesses, particularly the service industries or jobs such as retail, hotel, insurance, real estate, and domestic workers, etc.</li></ul>
<ul style="list-style-type: none"><li>● Reducing uncompensated overtime by providing for overtime pay.</li></ul>	<ul style="list-style-type: none"><li>● Overtime compensation may provide incentives for some employees to work longer hours for more earnings.</li></ul>
<ul style="list-style-type: none"><li>● Reducing family and social problems through better work-life balance.</li></ul>	<ul style="list-style-type: none"><li>● Faced with the increase in wage bill, some businesses may be forced to close down or relocate their operation elsewhere.</li></ul>
<ul style="list-style-type: none"><li>● Strengthening Hong Kong's competitiveness by facilitating employees' further education.</li></ul>	<ul style="list-style-type: none"><li>● Further restriction on labour market would tighten the already strained labour supply, cause a decline in service quality and weaken the overall competitiveness. This, coupled with an ageing population, may affect Hong Kong's long-term economic development.</li></ul>
<ul style="list-style-type: none"><li>● Possible creation of more job opportunities, particularly part-time and temporary openings.</li></ul>	<ul style="list-style-type: none"><li>● Employers may break down the long-working-hours jobs into part-time ones so that some full-time employees may become casual or part-time workers.</li></ul>



Pros	Cons
<ul style="list-style-type: none"> <li>● Improving employees' living standards if their earnings increase or remain unchanged.</li> </ul>	<ul style="list-style-type: none"> <li>● Besides cutting working hours, businesses may simply replace workers by automation or even stop providing some services if they are no longer profitable. Reduction in working hours may lead to a decrease in employees' income.</li> </ul>
<ul style="list-style-type: none"> <li>● Boosting the business of the retail, catering and service industries, etc. when employees have more time for spending.</li> </ul>	<ul style="list-style-type: none"> <li>● Higher costs may add pressure on inflation. This would in turn affect the purchasing power of the grassroots and undermine Hong Kong's competitiveness.</li> </ul>

Working hours policy is a highly complex and contentious subject. It will bring to our labour market and work culture as well as our economy widespread and far-reaching implications.

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.



**If Hong Kong is to formulate working hours policy, the community must consider the following issues:**

- (1) the objective of working hours policy in Hong Kong;
- (2) how will the policy affect labour flexibility and Hong Kong's competitiveness;
- (3) working hours policy may result in an increase in part-time jobs and fragmentation of work;

- (4) the affordability of the business sector particularly the SMEs in complying with the statutory SWH;
- (5) whether working hours regulation should be imposed across-the-board, or should it be introduced to certain industries or occupations with particularly long working hours; and
- (6) whether legislation is the best way forward.

Besides, we have to carefully examine each essential component of a working hours regime with due regard to our unique social and economic situation. The following key issues of working hours policy must be discussed in depth by the community at large:

1.	<b>Working hours regulation</b>	<ul style="list-style-type: none"> <li>● Would the adoption of SWH affect Hong Kong's economic development, given the acute global competition for business?</li> <li>● If SWH is considered the right direction to go, should we go down the legislative route?</li> <li>● If so, when would be a suitable time?</li> </ul>
2.	<b>Objective of working hours policy</b>	<ul style="list-style-type: none"> <li>● What is the objective of the working hours policy? For occupational safety and health? For attaining work-life balance? For fair compensation for overtime? For job creation and sharing?</li> </ul>
3.	<b>Employees' concern</b>	<ul style="list-style-type: none"> <li>● Are employees concerned about the adverse effects on their health and families due to working long hours? Or are they concerned more about long working hours without compensation of overtime pay?</li> <li>● Are they willing to work long hours if there is reasonable compensation for overtime work?</li> </ul>
4.	<b>Employees' right to choose</b>	<ul style="list-style-type: none"> <li>● Should employees be given the right to choose the number of hours they work? In other words, should the application of the working hours policy be voluntary or compulsory?</li> <li>● How do we balance employees' freedom to choose the number of hours worked with protection of their safety and health?</li> </ul>

5.	<b>Wages vs working hours</b>	<ul style="list-style-type: none"> <li>● Should employees' wages be allowed to be reduced following a reduction in working hours?</li> </ul>
6.	<b>Definition of working hours</b>	<ul style="list-style-type: none"> <li>● If we go for legislation, what is the definition of working hours?</li> <li>● Should "on-call" time, meal breaks and rest breaks be included as working hours?</li> </ul>
7.	<b>Working hours limit</b>	<ul style="list-style-type: none"> <li>● Should we adopt "standard working hours" or "maximum working hours"?</li> <li>● At which level should the daily or weekly threshold be set?</li> <li>● To whom should the limit apply?</li> </ul>
8.	<b>Overtime</b>	<ul style="list-style-type: none"> <li>● Should the number of overtime hours be rigidly restricted and how should it be regulated?</li> <li>● Should we impose statutory overtime pay rate and, if so, should it be a normal or premium pay rate?</li> </ul>
9.	<b>Exemptions</b>	<ul style="list-style-type: none"> <li>● Should regulation be imposed across-the-board, or should it be introduced for certain industries or occupations?</li> <li>● Should exemption be set, and if so, what are the criteria?</li> <li>● Should exemption be based on occupation or job responsibility, salary level, size or sales volume of companies, other exceptional circumstances, or a combination of them?</li> </ul>
10.	<b>Flexibility arrangements</b>	<ul style="list-style-type: none"> <li>● Given the policy objective agreed upon, should flexibility arrangements be allowed? How should they be designed?</li> <li>● How long should the reference period be?</li> <li>● Should employees who want to work longer hours for more earnings be allowed to opt-out?</li> </ul>

The questions to be further examined are given in the “Report of the Policy Study on Standard Working Hours” and its Executive Summary. The full text of the Report and its Executive Summary can be downloaded from the Labour Department’s website:

<http://www.labour.gov.hk/eng/plan/swh.htm>

## **The Way Forward**

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SWH policy has far-reaching implications for the local economy and community. Given the highly complex and controversial nature of SWH, it is essential that the public is fully aware of the issues involved and their implications. The “Report of the Policy Study on Standard Working Hours” aims to kick-start a discussion on working hours policy with participation from different sectors of the society through provision of objective information. The discussion will in the end shed light on the optimal future policy direction and facilitate the Government in mapping out the way ahead.

The Government has set up the Standard Working Hours Committee comprising members drawn from the labour sector, business sector, academia, community and government. The Committee serves as a good platform to follow up on the policy study on SWH and to gauge the views of the community.

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