“Part-time” Employment

Know More About Labour Legislation

Introduction

Some employers engage “part-time” employees to meet operational needs. A number of families also employ “part-time” local domestic helpers to help them with householdwork.

On the other hand, due to personal reasons such as further study and family commitments, some job-seekers prefer “part-time” work with fewer working hours.

“Part-time” employment offers an alternative mode of employment to both employers and employees.

This leaflet provides useful information to them on “part-time” employment.

Protection under Labour Legislation

Many people may think that “part-time” employees are not protected by labour legislation. This is a misconception.

In fact, labour legislation does not differentiate between part-time and full-time employees. Employees, no matter whether they are designated as “full-time” or “part-time”, are protected by labour legislation.

This leaflet briefly introduces the rights and protection enjoyed by “part-time” employees under the Employment Ordinance, Minimum Wage Ordinance, Employees’ Compensation Ordinance and Mandatory Provident Fund Schemes Ordinance.

For further information, please refer to the relevant publicity leaflets, provisions of the law or contact the Labour Department or Mandatory Provident Fund Schemes Authority.

Protection under the Employment Ordinance

The Employment Ordinance is the main piece of legislation governing employment conditions in Hong Kong. It lays down the minimum employment standards. Employers and employees may enter into employment terms more favourable than those provided in the Ordinance.

Employers, except those to whom the Employment Ordinance does not apply1, be they designated as full-time, “part-time”, casual or substitute employees, and irrespective of their working hours, are entitled to the following rights and benefits under the Ordinance:

- Wage payment protection
- Protection against unlawful dismissal
- Statutory holidays
- Maternity protection
- Employment protection (unreasonable and unlawful dismissal)
- Maternity leave
- Predominance of information on conditions of service by employers
- Protection against anti-union discrimination, etc.

Under the Employment Ordinance, an employee who has been employed continuously by the same employer for 4 weeks or more, with at least 16 hours worked in each week, is regarded as being employed under a “continuous contract.” An employee, who is employed under a “continuous contract” and meets the qualifying conditions stated in the Employment Ordinance, is also entitled to the following rights and benefits in addition to those mentioned in the preceding paragraph:

- Maternity leave
- Maternity protection
- Parental leave
- Severance payment
- Long service payment
- Employment protection, etc.

For further information on the rights and benefits enjoyed by employees under the Employment Ordinance, please refer to the Labour Department’s publication “A Concise Guide to the Employment Ordinance”, “A Concise Guide to Parental Leave under the Employment Ordinance” and other related publications.

Points-to-note On Switching from “Full-time” to “Part-time” Employment

Unless an employee has given prior consent or the employer can provide valid reasons2, the employer should not unilaterally change his employee from full-time to “part-time”. Otherwise, the employee is entitled to lodge a claim for remedies against his employer on the ground of unreasonable variation of the terms of the employment contract under the Employment Ordinance.

If an employee is asked to switch to “part-time” employment, he must carefully consider the new employment terms, assess the pros and cons involved, including whether the new employment contract is still regarded as a “continuous contract” under the Employment Ordinance.

For further information, please refer to the relevant publicity leaflets, provisions of the law or contact the Labour Department or Mandatory Provident Fund Schemes Authority.

Enquiry:
Labour Department
Website: http://www.labour.gov.hk
Hotline: 2777 1771
(The Hotline is handied by 1823)

1 Valid reasons:
- The conduct of the employee
- The capability or qualifications of the employee for performing his work
- Redundancy or other genuine operational requirements of the business
- Statutory requirements (i.e. it would be contrary to the law to allow an employee to continue to work in his original position or to continue with the original terms in his employment contract)
- Other substantial reasons

2 Valid reasons:
- The conduct of the employee
- The capability or qualifications of the employee for performing his work
- Redundancy or other genuine operational requirements of the business
- Statutory requirements (i.e. it would be contrary to the law to allow an employee to continue to work in his original position or to continue with the original terms in his employment contract)
- Other substantial reasons

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Protection under the Employees’ Compensation Ordinance

Under the Employees’ Compensation Ordinance, no employer shall employ any employee in any employment unless there is in force a policy of insurance to cover their liabilities both under the Ordinance and at common law for injuries at work in respect of all their employees, irrespective of the length of employment contract or working hours, full-time or “part-time”, permanent or temporary employment.

As required by the Employees’ Compensation Ordinance, an employer must notify the Commissioner for Labour of an accident by his employee arising out of and in the course of employment within 14 days (7 days in respect of fatal cases), and pay compensation to the employee.

Major items of compensation under the Employees’ Compensation Ordinance may include periodical payments, medical expenses and compensation for permanent total or partial incapacity, etc. If an employee dies as a result of an accident arising out of and in the course of employment, his employer shall be liable to pay compensation for death to the eligible family members of the deceased employee and reimburse reasonable funeral and medical attendance expenses to persons who have paid such expenses.

For information on the major provisions of the Employees’ Compensation Ordinance, please refer to the Labour Department’s publication “A Concise Guide to the Employees’ Compensation Ordinance”.

Protection under the Mandatory Provident Fund Schemes Ordinance

The Mandatory Provident Fund Schemes Ordinance provides that for any employee of age 18 or over to below 65 who is employed under a written or verbal employment contract for a period of not less than 60 days irrespective of whether he is employed full-time or part-time and irrespective of his weekly working hours, his employer must enrol him in a Mandatory Provident Fund (MPF) scheme and make contributions.

For employees who are not employed under a “continuous contract”, as long as their employment period is not less than 60 days, they are still covered by the MPF System.

The above 60-day rule does not apply to “casual employees” under the MPF System. For casual employees employed on a day-to-day basis or for a fixed period of less than 60 days in the catering industry or the construction industry. Even if a casual employee is employed for less than 60 days, his employer still must enrol him in an MPF scheme and make contributions.

Training and Promotion

- In a rapidly changing labour market, “part-time” employees, like their full-time counterparts, have to equip themselves with necessary job skills to cope with challenges at work. In regard, employers should, as far as possible, treat all employees alike and provide them with adequate training opportunities.

- A person who has taken up a “part-time” job does not mean that he does not accept new challenges. Employers should provide “part-time” employees with suitable promotion opportunities to boost their morale and productivity.

- An employer should only take account of the company’s operational needs in recruiting “part-time” employees. He should not limit the working hours of the employees, or by other means, to evade his liabilities under labour legislation.

- If additional full-time employees are needed, an employer should give priority to “part-time” employees performing similar duties in their companies. Not only can this practice help reduce the recruitment and training costs, it can also help the employer to recruit the most suitable persons.