

General Framework on Working Hours Policy

Report of SWHC — Four Major Recommendations

Report of SWHC — Recommendation (1)

- **Recommendation (1): To adopt a legislative approach to mandate employers to enter into written employment contracts with the “lower-income grassroots employees”**

- ◆ Employment contracts shall specify

↓
terms on working hours and
OT compensation
arrangements

- ◆ **Employers and employees may work out the agreed contents** of these terms having regard to the operational needs of different sectors and occupations

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Report of SWHC — Recommendation (2)

- **Recommendation (2): To adopt a legislative approach to specify that the “lower-income grassroots employees” should be entitled to OT compensation**

- ◆ Entitled to OT pay at a rate **no less than the rate of the agreed wages¹**; or
◆ the equivalent **time-off in lieu**

Note 1: It refers to the wage rate calculated based on the agreed wages. With reference to wages as defined under the Employment Ordinance, agreed wages means all remuneration, earnings, allowances (including travelling allowances, attendance allowances and commission), tips and service charges payable in terms of money to an employee in respect of his/ her work under his/ her contract of employment, but does not include overtime pay.

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Report of SWHC — With regard to Recommendations (1) and (2)

SWHC considered that: with regard to
Recommendations (1) and (2)

Should not cover
persons to whom the
Employment
Ordinance (EO) and
the Minimum Wage
Ordinance (MWO) do
not apply

To recommend the
Government to
conduct detailed
examination and
impact assessment



to determine the scope
of “lower-income
grassroots employees”
requiring protection

To recommend the
Government to further
gather the views of the
community and make
reference to relevant
information



to draw up the
contents and detailed
arrangements of these
two recommendations

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Report of SWHC — Recommendation (3)

- Recommendation (3): To formulate and publish
sector-specific guidelines



To set out suggested:

- ◆ working hours standards
- ◆ OT compensation methods
- ◆ good working hours management measures

- for employers’ reference and adoption
- so as to improve employees’ working hours
arrangements

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Report of SWHC — Recommendation (4)

- **Recommendation (4):** To monitor the implementation of the above recommendations and review their effectiveness, for example, through –

◆ Collecting relevant information and statistics through **enforcement action** and **statistical surveys**

◆ **After two years** of implementation of the above recommendations
↓
review their effectiveness

◆ Through an appropriate **tripartite platform**

↓
to **discuss** and **study** whether there is a need for **standard working hours (SWH) legislation**

↓
and if so, its **contents** and relevant **arrangements**

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Accepting SWHC's Recommendations – Considerations

- To pursue regulation of contractual working hours **as a start**, and address the issue of uncompensated or under-compensated OT work

➤ To introduce changes to working hours policy progressively

↓
◆ to facilitate the business community to **cope with its possible impact**

➤ By enhancing the transparency of the working hours terms and putting in place appropriate and fair OT compensation arrangements

↓
◆ Recommendations (1) and (2) could serve as an **important and positive step in improving working hours policy**

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Accepting SWHC's Recommendations – Considerations

- **Compulsory written employment contracts with specification of working hours terms for “lower-income grassroots employees”**



- ◆ **Avoid ambiguities** arising from oral agreements
- ◆ Foster a **culture** amongst enterprises in providing **reasonable working hours arrangements**
- ◆ **Enhance the transparency** of working hours terms
- ◆ **Allow flexibility** to cater for the operational needs of different trades and occupations

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Accepting SWHC's Recommendations – Considerations

- **Mandating OT compensation for “lower-income grassroots employees”**



effectively address the concern over **uncompensated or under-compensated OT work**

- **Formulation of sector-specific working hours and OT compensation guidelines**



enhance transparency of working hours terms
provide useful references for employers/employees to follow

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The proposed policy framework and measures

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Details of the legislative proposals and implementation arrangements

- To adopt a monthly wage line of not exceeding \$11,000 for defining the “lower-income grassroots employees” and legislate to mandate employers to enter into written employment contracts with working hours and OT compensation terms

Employees² benefitting from **Recommendation (1)** include —

- some 205 000 employees **without written employment contracts**
- some 408 000 employees with written employment contracts **without weekly working hours** or **OT compensation method specified**

Note 2: Excluding government employees and live-in domestic workers

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Details of the legislative proposals and implementation arrangements

- To use the same wage line (\$11,000) for defining the “lower-income grassroots employees” who shall be entitled to the statutory OT compensation

About 550 000 employees³ would benefit from **Recommendation (2)**

- the estimated **increase in total annual wage bill will be around \$524M**

In considering the wage line of \$11,000, we have taken into account

- while strengthening the **protection of employees’ rights and benefits,**
- also need to consider the **affordability of enterprises;** and
- **sustainable development** of the economy

- **This is an appropriate wage line covering a reasonable number of low-income employees without significant adverse impact on enterprises and the overall economy**

Note 3: Excluding government employees and live-in domestic workers

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Details of the legislative proposals and implementation arrangements

- The proposed legislative measures of recommendations (1) and (2) **shall not cover persons to whom EO and MWO do not currently apply**
- To make use of the **Labour Advisory Board (LAB)** as a platform for employer and employee representatives to thrash out the contents and implementation arrangements of the legislative proposals

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Other Supportive Measures and Review

- To draw up 11 sector-specific working hours guidelines through Labour Department (LD)'s existing industry-based tripartite committees and those to be set up
- To introduce supportive measures to enhance public understanding of working hours policy
- To make preparation as per the request of LAB in monitoring the effectiveness of SWHC's recommendations, for example, stepping up enforcement action and inspection as well as launching education and publicity activities

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Review mechanism

- To review the effectiveness and impact of the recommendations after two years of implementation through LAB
- including whether there is a need for SWH legislation and, if so, its contents and relevant arrangements

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Timetable for the Implementation of SWHC’s Recommendations

CE in Council approves SWHC’s recommendations



To iron out the implementation arrangements for LAB’s discussion and views



Assuming the discussion at LAB could be wrapped up by mid-2018



To draft and submit a bill to amend EO in the second half of 2018



The Legislative Council to scrutinise the amendment bill



(A transitional period for employers and employees to prepare)

Envisages to implement by end-2020/ early 2021

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Thank you

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