

香港必須知所抉擇

Hong Kong must make a wise choice

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推行標準工時不會使旅遊業欣欣向榮。

Introducing standard working hours will not make the travel and tourism industry thrive and prosper.

香港現在正要應付一件紛爭不已的事情，處理得不夠小心、不夠技巧的話，社會必定會因而撕裂。放心，本文不是談香港的政改問題，那件事情其實是標準工時。標準工時首先由前任行政長官在兩份施政報告中提出，現在則按照現任行政長官在競選綱領及第一份施政報告中的承諾，正由一個專責委員會在研究。

標準工時的關鍵要素

標準工時的問題非常複雜，而且在實行了某些形式的工時限制的地方也有很多變異，因此最好先稍事瞭解這一問題的幾個關鍵要素。

標準工時指僱員工作並獲得薪酬的基本工作時數；如果工時超出了這個時數，僱主必須支付超時工作薪酬。標準工時很容易和最高工時相混淆；最高工時指工時一達到這個時數後僱員即不可工作，縱使有超時工作薪酬也不行。香港現在要決定的，只是標準工時而已。

計算標準工時的時候，需要決定參照期的長短，即在這期間內工時的平均值是多少。參照期可以是一星期、一個月等，不同行業也可以因應需要而定出不同的參照期。

超出了標準工時的工作時數需要付出超時工作薪酬，這可以有各種形式，既可以用常見的額外工資率計算(例如平常工資率的一點五倍)，也可以用平常工資、補假等方式補償。

即使要推行標準工時，也無須實施不准豁免的統一制度。事實上，容許豁免工時限制的制度非常普遍，而且可以按多種形式批准，例如職業、職責、薪酬水平、行業、公司規模等。

Hong Kong is now faced with a most divisive issue that, if not handled with care and skill, society will certainly be torn asunder. Relax, this is not about political reform in the city. That issue is, in fact, standard working hours - first brought up by the former Chief Executive in two of his policy addresses and now studied by a special committee, as pledged by the incumbent Chief Executive in his election platform and his first policy address.

Key elements of standard working hours

The issue of standard working hours is so complicated and full of so many variations in places where some form of working-hour limits has been implemented that it is better to have a look at several of its key elements first.

Standard working hours refer to the basic number of hours employees work and get paid for, and if they need to work any extra hours, they will have to be given overtime pay. Standard working hours are easily confused with maximum working hours, which mean work must be stopped once the number of hours employees have worked reaches that limit even if overtime pay is given. The decision Hong Kong needs to make now only concerns standard working hours.

When standard working hours are calculated, the length of the period of time, called the reference period, over which the number of working hours is averaged needs to be determined. The reference period may be one week, one month, etc, and there may be different reference periods tailor-made to meet the needs of different industries.

Overtime pay for the hours worked in excess of standard working hours may take various forms. Whereas a premium rate of pay, say 1.5 times the normal rate, is quite common, overtime hours may also be compensated by normal pay, time off, etc.

Standard working hours, even if implemented, need not be a uniform regime that allows no exemptions. In fact, exemptions from working-hour limits are very common and may be variously granted by, for example, occupation, job responsibility, salary level, industry, size of company and others.

業界的意見

上文提及的專責委員會在二零一三年四月成立，名為標準工時委員會，負責使公眾瞭解標準工時的問題，以及向政府建議是否立法推行這一制度或採用其他方案。

在今年一月下旬至七月底期間，標準工時委員會展開公眾參與及諮詢活動，並且舉辦了十三場公眾諮詢會，諮詢多個行業、僱主組織、勞工團體及公眾人士的意見。議會委派了副主席出席六月二十三日的諮詢會，藉以表達業界的意見；此外還協助標準工時委員會，以問卷方式調查一百五十名領隊及導遊的工時情況。

議會其後徵詢了外遊和來港旅行社以及相關委員會的看法，向標準工時委員會提交了意見書。意見書的立場非常清晰，即基於業界工作和報酬的特質，議會反對沒有豁免而且不分行業的標準工時制度。

領隊及導遊等旅遊從業員，通常都要長時間工作，而且工作時間並不固定。他們的報酬不是按小時計算的，而是多數按工作計算，這樣可以大力促使有衝勁的員工做得更多，做得更好。把標準工時這種僵化的報酬制度強加於業界的話，會徹底改變了旅行社獎勵員工的方式，而且從業員一向賺取薪金及小費等收入的方式也將一去不返。

工時一超出限度就要支付超時工作薪酬，旅行社的員工開支因此必然大增，最終會有意料之外的結果：旅行社為免支付超時工作薪酬，可能不願意差遣前線員工為顧客提供額外的更佳服務，也可能會聘用更多兼職員工及自僱人士。

旺季時業界的勞工需求急增，淡季時則大跌，業界的這個特點使任何單一的標準工時制度都不適用。因此，假如政府研究標準工時的問題時，不審慎考慮業界這一按淡旺季而變更的勞工需求狀況，那不僅業界的競爭優勢難免受損，而且還會引發僱主和僱員間的勞資衝突。

以立法方式訂立的任何標準工時制度，不僅會對旅遊業造成巨大打擊，而且各行各業、僱主僱員都無一倖免。香港人必須明擇善斷，堅拒任何表面有利、卻會危害香港長遠利益的建議。✎

Views of travel industry

The special committee mentioned above, set up in April 2013 and called the Standard Working Hours Committee (SWHC), has been tasked with promoting public understanding of the issue of standard working hours and advising the Government on whether a statutory regime or other alternatives should be introduced.

A public engagement and consultation exercise was carried out from late January to the end of July 2014, and 13 public forums were organised for various industries, employers' associations, labour organisations and the general public. At one of these forums held on 23 June, the TIC sent its Deputy Chairman to express the views of the industry. It also helped the SWHC to conduct a questionnaire survey of the working-hour situation of 150 tour escorts and tourist guides.

A written submission was then sent to the SWHC after the views of outbound and inbound agents and of committees of the TIC were solicited. **The position of the TIC, stated unequivocally in the submission, is that it objects to the introduction of across-the-board standard working hours without exemptions given the special nature of work and pay of the industry.**

Members of the industry, including tour escorts and tourist guides, generally have to work long and irregular hours, and are compensated not on an hourly basis, but quite often on an assignment basis, which provides a strong incentive for the more motivated to do more work and do it better. Imposing a rigid reward regime in the form of standard working hours on the industry will fundamentally change the way in which travel agents have rewarded their staff and industry members have earned their income, which includes salary and gratuities.

Since overtime pay has to be given whenever the number of hours worked exceeds the limit, it is inevitable that travel agents will have to bear a significant increase in labour costs, with the unintended result that they may balk at deploying front-line staff to provide extra and better services for customers and may take on more part-time staff and self-employed people in order to avoid overtime pay.

Labour demand in the industry surges and plunges in high and low season, thus making any single set of standard working hours unfit for the industry. If the Government does not give careful consideration to this seasonal change of labour demand when studying the issue of standard working hours, then the competitive edge of the industry will be hampered and labour disputes between employers and employees will be induced.

Any statutory regime of standard working hours will have a huge impact not only on the travel and tourism industry, but on every industry and every employer and every employee. Hong Kong people must make a wise decision and say a firm no to any apparently beneficial proposal that will ultimately put the long-term benefit of Hong Kong at risk. ✎