

業界對標準工時的意見

Industry's views on standard working hours

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業界不是完全支持「大框」，但反對「小框」。

The industry partially supports the “big frame”, but opposes the “small frame”.

標準工時委員會兩年前完成了第一階段的標準工時諮詢(見「特稿」，二零一四年第三期)，今年四至七月再展開第二階段的諮詢。和上次諮詢一樣，議會這次也在詢問了好幾個轄下委員會的意見後，向標準工時委員會提交了意見書。

這次諮詢的基本概念是「大框」和「小框」。簡單而言，「大框」指透過立法，強制僱傭雙方簽訂書面合約，合約中還要包括「協議工時」及「超時工作」等具法定定義的用語；而「小框」則指制定法定的標準工時(但並不是最高工時)。

雖然多數旅行社都支持「大框」，但少數反對的旅行社也佔挺高比例，理由是旅行社僱員中有些需要到香港以外的地方工作，例如外遊領隊等，他們的工時往往並不固定，沒有「標準」可言。

如要實行「大框」，業界認為應容許僱主或僱員選擇不受工時規管，而且應豁免某些類別的僱員，例如工作地點不限於香港的僱員，或受僱期短的人士。已獲《僱傭條例》或《最低工資條例》豁免的人士，也應獲得豁免，以確保香港的勞工政策一致。

還有意見認為，即使實行「大框」，也應只有「大框」實施後才簽訂的僱傭合約才適用，以免僱傭雙方因為要廢除現行合約並簽訂新合約而出現糾紛。此外，應給予至少一年的過渡期，使僱傭雙方有足夠時間溝通，為即將出現的轉變做好準備。

至於「小框」，業界對此的看法頗為一致，認為現階段推行爭議太大，也太複雜，最好由僱傭雙方自行訂定工時及超時工資等事宜。✎

After its first-stage consultation on standard working hours two years ago (see “Feature”, No. 3/2014), the Standard Working Hours Committee (SWHC) conducted its second-stage consultation from April to July this year. Similar to the previous consultation, the TIC also sent a written submission to the SWHC after soliciting views from several of its committees.

The basic concepts of this consultation are the “big frame” and the “small frame”. **Put simply, the “big frame” means that employers and employees will be required, through legislation, to mandatorily enter into written contracts of employment, which will include certain legally defined terms such as “agreed working hours” and “overtime work”, and the “small frame” means that a statutory regime of standard working hours (but not maximum working hours) will be set up.**

Although a majority of travel agents are in support of the “big frame”, a significant minority are opposed to it on the grounds that some employees of travel agents, such as outbound tour escorts, need to work outside Hong Kong and their working hours are often irregular and lack any “standard”.

If the “big frame” is to be implemented, the industry considers that employers or employees should be allowed to opt out of regulation of working hours altogether, and that exemptions should be granted to certain kinds of employees, such as those whose places of employment are not restricted to Hong Kong or those whose durations of employment are short. Exemptions should also be granted to those already exempted by the Employment Ordinance and the Minimum Wage Ordinance to ensure consistency of labour policy in Hong Kong.

There are also views that the “big frame”, even if it is to be implemented, should only apply to employment contracts entered into after its implementation to avoid disputes between employers and employees because existing contracts will then have to be voided and new ones signed, and that there should be a transitional period not shorter than one year to allow sufficient time for employers and employees to communicate with each other and to prepare for the impending changes.

As for the “small frame”, the industry is quite unanimous in considering it too controversial and complicated to be implemented at this stage, and believes that it should best be left to employers and employees to work out on their own matters such as working hours and overtime compensation. ✎