

Chapter 7

Employment

The government promotes employment, maintains harmonious labour relations, safeguards the labour rights of employees and enhances safety and health at work.

Employment is the key to people's livelihood. The government improves the use of human resources in Hong Kong and supports economic development by upgrading workers' skills so they can be more employable and competitive, improving the business environment, introducing measures to create jobs and enhancing labour market efficiency.

The Labour and Welfare Bureau maps out strategies to develop a well-trained and adaptable workforce to meet the changing manpower demands of the economy and contribute to the overall competitiveness of Hong Kong.

The Labour Department formulates and implements labour policies; enforces labour legislation; provides free employment and recruitment services to job-seekers and employers; promotes harmonious labour relations; safeguards employees' rights and benefits; and promotes the occupational safety, health and welfare of the workforce.

Labour legislation, supplemented by administrative measures, provides the statutory basis for employers' and employees' obligations and rights, and enables the city to meet internationally accepted labour standards. In 2018, the department secured 4,377 convictions, resulting in fines totalling more than \$34.04 million.

To strengthen the regulation of employment agencies (EAs), the Employment (Amendment) Ordinance 2018 took effect on 9 February to, amongst other things, increase the penalties on EAs overcharging job-seekers or operating without a licence, from a maximum fine of \$50,000 to a maximum fine of \$350,000 and imprisonment for three years. On the same day, the maximum daily rates of medical expenses reimbursable for employees injured at work and prescribed occupational disease sufferers under the Employees' Compensation Ordinance and the Pneumoconiosis and Mesothelioma (Compensation) Ordinance also increased.

The Employment Ordinance was amended such that with effect from 19 October, the court or the Labour Tribunal may make an order for reinstatement or re-engagement as requested by an employee in a case of unreasonable and unlawful dismissal without having to secure the employer's agreement as a prerequisite.

Labour Market

In 2018, the labour force totalled 3.98 million people, of whom 50 per cent were men and 50 per cent were women. The total represented a rise of 0.8 per cent over 2017.

The majority, or 88.3 per cent, were employed in the service sectors: 29.6 per cent in the import/export, wholesale and retail trades, and accommodation (covering hotels, guesthouses, boarding houses and other establishments providing short-term accommodation) and food services; 27 per cent in public administration, and social and personal services; 20.7 per cent in financing and insurance, real estate, and professional and business services; and 11 per cent in transport, storage, postal and courier services, and information and communications. Only 2.4 per cent worked in manufacturing.

The overall unemployment rate dropped from 3.1 per cent in 2017 to 2.8 per cent in 2018, while the underemployment rate fell from 1.2 per cent to 1.1 per cent. Total employment rose by about 43,800 to 3,867,000.

Employment Earnings and Wages

In 2018, 12.2 per cent of employed persons earned less than \$5,000 a month and 24.2 per cent earned \$30,000 and above a month. Median monthly employment earnings rose by \$1,000 to \$16,500 from \$15,500 in 2017. The median monthly employment earnings for higher-skilled workers, such as managers and administrators, professionals and associate professionals, were \$30,000 in 2018, while those for lower-skilled workers were \$12,700.

Wage rates as measured by the Nominal Wage Index for workers up to supervisory level increased 4.1 per cent in December 2018 over a year earlier.

International Labour Affairs

Hong Kong applies 31 international labour conventions of the International Labour Organisation (ILO). The city puts in place comprehensive legislative and administrative measures to implement standards set by these conventions.

Hong Kong takes part actively in ILO activities. In June, a team comprising representatives of employers, employees and the government attended the 107th Session of the International Labour Conference as part of the People's Republic of China delegation.

Labour Advisory Board

The Labour Advisory Board, a representative tripartite consultative body, advises the Commissioner for Labour on labour matters including legislation and ILO conventions and recommendations. Chaired by the commissioner, it has six members representing employers

and six representing employees. In November, employee representatives were elected for the next two-year term of the board.

Employment Services

The Labour Department provides free employment and recruitment services to job-seekers and employers through 13 job centres, three recruitment centres for the catering, retail and construction industries, a Telephone Employment Service Centre and a Job Vacancy Processing Centre. Round-the-clock employment services are available through the Interactive Employment Service website and mobile application.

The department organises large-scale, district-based and thematic job fairs. It offers targeted help through the Employment Programme for the Elderly and Middle-aged, Work Trial Scheme, Work Orientation and Placement Scheme for job-seekers with disabilities, Youth Employment and Training Programme, and Youth Employment Start. For major closure or retrenchment cases, it will set up a telephone hotline and special counters at job centres to provide priority job referral services for affected workers.

In 2018, the department registered 38,567 job-seekers and made over 136,000 job placements. It recorded 1,468,394 private-sector vacancies, 3.5 per cent more than in 2017.

Employment Programme for the Elderly and Middle-aged

To further encourage employers to hire elderly job-seekers and provide them with on-the-job training, the Labour Department enhanced the Employment Programme for the Middle-aged on 1 September and renamed it the Employment Programme for the Elderly and Middle-aged. Employers engaging job-seekers aged 60 or above who are unemployed or have left the workforce receive a monthly training allowance of up to \$4,000 per employee for six to 12 months. Those who engage unemployed job-seekers aged 40 to 59 get the prevailing rate of up to \$3,000 per month for three to six months. This programme recorded 2,574 placements in 2018.

Work Trial Scheme

Work trials are conducted for people with difficulties in finding jobs. Each participant who completes a one-month work trial receives \$7,600 from the department, of which \$500 is paid by the organisation in which the participant served. In 2018, 152 people took part in the trials.

Work Incentive Transport Subsidy Scheme

This scheme helps low-income earners reduce their cost of travelling to and from work and encourages them to secure and stay in employment. In 2018, 37,072 applicants received the subsidy. On 1 April, the household-based application arrangement of the scheme was abolished upon the implementation of the Working Family Allowance Scheme.

People with Disabilities

The department helps people with disabilities who are fit for open employment to seek jobs. It provides free employment counselling and placement services to people who are formerly mentally ill or have hearing or visual impairment, physical handicap, chronic illness, autism

spectrum disorder, intellectual disability, specific learning difficulties or attention deficit/hyperactivity disorder. In 2018, the department registered 2,766 job-seekers with disabilities and secured 2,219 placements.

The Work Orientation and Placement Scheme improves employment opportunities for people with disabilities by paying employers an allowance to encourage them to provide jobs and employment support. In September, the maximum allowance payable to a participating employer who hired a person with disabilities having employment difficulties increased by \$16,000 to \$51,000, and the maximum payment period was extended from eight months to nine. In 2018, the scheme made 796 job placements.

Continuing Education Fund

The government subsidises continuing learning for adults. In 2018, over 26,000 applications to open Continuing Education Fund accounts were approved and subsidies totalling about \$124 million were paid out. In May, \$10 billion was injected into the fund to support the implementation of enhancement measures from April 2019.

Youth Employment and Training Programme

School-leavers aged between 15 and 24 with up to sub-degree education may choose from a full range of pre-employment and on-the-job training. This programme is an effective platform for government departments, employers and non-governmental organisations to work together to help young people enhance their employability, improve job search skills and secure employment. Participating employers who engage eligible young people and provide them with on-the-job training may get a training allowance, the ceiling of which was raised in September from \$3,000 per month to \$4,000 per month per employee for six to 12 months. In 2017-18, 4,694 school-leavers enrolled on the programme.

Youth Employment Support

People aged between 15 and 29 may make use of one-stop advisory and support services at two youth employment resource centres called Youth Employment Start, which are operated by the department to improve their chances of employment and help secure their sustainable employment or self-employment. In 2018, services provided to young people by the two centres totalled 72,899 times.

Working Holiday Scheme

Hong Kong has bilateral working holiday arrangements with 13 economies: Australia, Austria, Canada, France, Germany, Hungary, Ireland, Japan, the Netherlands, New Zealand, Korea, Sweden and the United Kingdom. The scheme enables Hong Kong youths aged 18 to 30 to broaden their horizons by experiencing foreign culture through living and working temporarily overseas while holidaying, and allows youths from the partner economies to learn about Hong Kong.

The UK allows Hong Kong youths to stay for up to 24 months. The remaining 12 partner economies issue working holiday visas to Hong Kong youths to stay for up to 12 months for

holidaying, short-term employment to support their travel expenses and, except for Ireland, short-term courses.

As at end-2018, the scheme had recorded about 90,000 Hong Kong youth participants and welcomed about 11,000 youths from the partner economies to Hong Kong.

Employees Retraining Board

The Employees Retraining Board is a statutory body set up under the Employees Retraining Ordinance. The board provides, under its Manpower Development Scheme, market-driven training and support through over 80 appointed training bodies that operate a total of around 400 training centres. People aged 15 or above with up to sub-degree education may enrol on its full-time placement-tied courses, half-day or evening generic skills training courses, and courses under the Skills Upgrading Scheme Plus. There are about 700 courses straddling 28 industries. The board offers around 130,000 training places annually to upgrade the skills of in-service workers, and to help the unemployed and those seeking job changes re-enter the labour market.

The board provides dedicated training and employment support to young people, new immigrants, ethnic minorities, people with disabilities, people recovered from work injuries, rehabilitated former drug abusers and former offenders.

The board operates Smart Living, Smart Baby Care and Smart Starter platforms to provide trainees with referral and follow-up services for relevant job vacancies. It runs service centres and service spots in various districts to provide local residents with training support.

Labour Relations

The Labour Department provides a voluntary conciliation service to help employers and employees outside the government resolve disputes and claims. It also publicises the Employment Ordinance and promotes good human resource management practices.

The department runs nine industry-based tripartite committees to foster industry-level dialogue and cooperation among employers, employees and the government. These committees, covering catering, cement and concrete, construction, hotel and tourism, logistics, printing, property management, retail, and theatre, provide effective forums for members to discuss issues of common concern to their industries.

The department also works with 18 human resources managers' clubs to encourage members to maintain effective employer-employee communication and adopt good human resource management practices in their organisations and sectors.

During the year, the department handled 90 trade disputes and 13,691 employment claims. In cases where the department provided a conciliation service, more than 70 per cent were settled. It also handled five strikes which resulted in a loss of 211 working days in the year, or an average loss of 0.06 working days per 1,000 salaried employees and wage earners, one of the lowest in the world.

Trade Unions

The Registry of Trade Unions administers the Trade Unions Ordinance and promotes good and responsible trade union management. Once registered, a trade union becomes a body corporate and enjoys immunity from certain civil suits.

In 2018, 13 new unions were registered, bringing the number of registered trade unions to 908, comprising 846 employee unions, 13 employers' associations, 38 mixed organisations of employees and employers, and 11 trade union federations. The yearly average of the declared membership of employee unions over the five years from 2013 to 2017 was about 860,000. During the same period, the trade union participation rate, meaning the proportion of the total declared membership of employee unions to the total number of salaried employees and wage earners, was 24.3 per cent.

As at end-2018, nearly half of the employee unions were affiliated to four major labour organisations: the Hong Kong Federation of Trade Unions (191 unions), Federation of Hong Kong and Kowloon Labour Unions (94 unions), Hong Kong Confederation of Trade Unions (82 unions), and Hong Kong and Kowloon Trades Union Council (27 unions).

Minor Employment Claims Adjudication Board

This board determines claims arising from disputes of statutory or contractual rights of employment that involve not more than 10 claimants in each case and for sums not exceeding \$8,000 per claimant. In 2018, it dealt with 622 claims and granted awards amounting to \$1.61 million.

Labour Tribunal

The Labour Tribunal is part of the Judiciary. It is a quick, simple and inexpensive channel for adjudicating labour disputes that are not within the exclusive jurisdiction of the Minor Employment Claims Adjudication Board. In 2018, 3,887 of the cases filed with the tribunal were initiated by employees and 68 by employers, and 94 per cent were referred by the Labour Department. The tribunal dealt with 3,607 cases and granted awards totalling more than \$255 million.

Employees' Rights and Benefits

The Employment Ordinance provides for employment-related benefits and entitlements to employees. Over and above the statutory requirements, employers and employees are free to negotiate the terms and conditions of employment. The government aims to improve employees' benefits and protection at a pace commensurate with Hong Kong's overall socio-economic development, taking into account both employees' interests and employers' ability to afford the benefits.

Legal Protection

In general, children under 15 are prohibited by law from taking up employment. Children aged 13 and 14 may work in non-industrial establishments under strict rules, while young people aged 15 to 17 may work in industrial establishments, subject to restrictions on their working hours.

Labour inspectors conduct workplace inspections to ensure employers comply with laws which safeguard workers' rights and benefits. The inspectors also check employees' proof of identity and work with the police and Immigration Department to combat illegal employment. In 2018, the three departments carried out 164 joint operations.

Enforcement against Wage Offences

The Labour Department takes active steps to prevent wage defaults. It also pursues vigorous enforcement action against employers who fail to pay wages due to their employees, and against employers who wilfully and without reasonable excuse fail to pay sums awarded by the Labour Tribunal or Minor Employment Claims Adjudication Board.

In 2018, the department secured 513 convictions for wage offences and 161 convictions for failure to pay sums awarded by the tribunal or the board. Four company directors were sentenced to imprisonment for these offences, and another three company directors and one manager were ordered to perform community service.

Protection of Wages on Insolvency Fund

The fund provides timely relief in the form of ex gratia payment covering outstanding wages, wages in lieu of notice, severance payment, pay for untaken annual leave and pay for untaken statutory holidays to employees affected by their insolvent employers. It is financed mainly by a levy on business registration certificates. In 2018, the fund made ex gratia payments totalling \$51 million to 1,689 applicants and recorded a surplus of \$479 million.

Employees' Compensation

The employees' compensation regime follows the 'no-fault' compensation principle, whereby compensation is payable regardless of whether the injury, prescribed occupational disease or death is due to the employee's fault. The Employees' Compensation Ordinance covers injury or death caused by accidents arising from and in the course of employment, or by prescribed occupational diseases. An employer must have a valid employees' compensation insurance policy to cover liabilities under the laws, including common law. Labour inspectors conduct workplace inspections to ensure employers have taken out such insurance.

The department helps injured employees and the families of deceased employees get compensation from their employers under the Employees' Compensation Ordinance. It helps employees and employers better understand their rights and obligations under the ordinance through talks and wide dissemination of publicity materials.

The Employees Compensation Assistance Fund provides assistance payment to injured employees or family members of deceased employees who fail to receive the entitled compensation after exhausting all legally and financially viable means of recovery. The Occupational Deafness Compensation Fund provides compensation for persons employed in specified noisy occupations who suffer hearing loss as a result of prolonged exposure to excessive noise at work, and financial assistance for hearing assistive devices. Both funds are financed mainly by a levy imposed on all employees' compensation insurance policies taken out by employers.

Pneumoconiosis and/or mesothelioma sufferers are eligible for compensation under the Pneumoconiosis and Mesothelioma (Compensation) Ordinance administered by the Pneumoconiosis Compensation Fund Board. The fund is financed by a levy imposed on the construction and quarrying industries. Those diagnosed to have contracted pneumoconiosis before the ordinance became effective in 1981 may apply for ex gratia payments from the government under the Pneumoconiosis Ex Gratia Scheme.

Statutory Minimum Wage

The statutory minimum wage rate of \$34.50 per hour, effective from May 2017, has been operating smoothly. The department publicises the Minimum Wage Ordinance widely and labour inspectors visit businesses to ensure employers' compliance with the law.

The Minimum Wage Commission is an independent statutory body established under the ordinance. Its main function is to review and recommend the statutory minimum wage rate to the Chief Executive in Council when required by the Chief Executive to do so. The commission submitted its latest recommendation report to the Chief Executive in Council in October.

Regulation of Employment Agencies

The department enforces Part XII of the Employment Ordinance, the Employment Agency Regulations and the Code of Practice for EAs through issuing licences, conducting inspections, investigating complaints and prosecuting offenders. In 2018, the department conducted 2,109 inspections of EAs, prosecuted 10 non-compliant EAs successfully, issued or renewed 3,079 EA licences, and revoked or refused to issue or renew 11 licences.

Working Hours Policy

In the absence of broad-based support, the government decided in 2018 not to pursue for the time being legislative proposals on contractual working hours and mandatory overtime compensation recommended by the Standard Working Hours Committee, and to focus on formulating working hours guidelines for 11 specified industries through the department's industry-based tripartite committees. The guidelines will suggest working hours arrangements, overtime compensation arrangements and good working hours management measures for employers' reference and adoption.

Retirement Protection

All employees, except those who are not required by law to join a local retirement scheme, receive retirement protection under the Mandatory Provident Fund (MPF) Schemes Ordinance, Occupational Retirement Schemes Ordinance or other statutory pension plans.

To preserve the accrued benefits of employers' mandatory contributions in employees' MPF accounts for retirement purposes, the government announced in October enhanced arrangements for abolishing the use of such accrued benefits to offset severance payment and long service payment. The government plans to introduce the enabling bill into the Legislative Council by 2020.

Entry of Non-locals for Employment

Professionals

People who possess special skills, knowledge or experience of value to Hong Kong may apply to take up employment if they have secured a job that cannot be taken up readily by the local workforce and offers a remuneration package broadly commensurate with the prevailing market level. Entrepreneurs, including start-ups, are welcome to bring capital and expertise to Hong Kong if they can make a substantial contribution to the economy. In 2018, 55,360 people from more than 100 countries and territories were hired and established or joined a business in this way.

Students

Fresh graduates of full-time, locally accredited programmes at degree or higher level may apply to stay and work in Hong Kong for one year after graduation.

Returning non-local graduates may also apply to work in Hong Kong if the job they have secured is at a level commonly taken up by degree-holders and the remuneration package is at market level.

Supplementary Labour Scheme

Employers may apply to the Labour Department to import workers to fill vacancies at the technician level or below. All applications are considered on a case-by-case basis. To ensure employment priority for local workers, employers must undertake a four-week open recruitment for each application. The department will then pass the application and its recommendation to members of the Labour Advisory Board for views, followed by the Commissioner for Labour for a decision.

As at December, 5,298 imported workers were working in Hong Kong under the scheme.

Foreign Domestic Helpers

Foreign domestic helpers may be admitted to work in Hong Kong if they and their employers satisfy the eligibility criteria, subject to immigration control. Employers must offer their helpers the terms of employment stipulated in the government-prescribed standard employment contract, including free and suitable accommodation with reasonable privacy at the employer's residence, free food or food allowance in lieu, wages not lower than the minimum allowable wage set by the government, free passage from and to the helper's place of origin and free medical treatment.

As at December, Hong Kong had 386,075 foreign domestic helpers. Filipino and Indonesian helpers respectively accounted for 54.6 per cent and 43 per cent of all foreign domestic helpers in Hong Kong.

Occupational Safety and Health

The Labour Department strives to improve occupational safety and health standards in the workplace through inspection and enforcement, publicity and promotion, and education and

training. Occupational safety and health standards have improved through the years with the concerted efforts of employers, employees, contractors, safety practitioners and the government.

In 2018, there were 35,964 occupational injuries, a drop of 9.1 per cent from the 39,579 cases a decade ago. Over the same period, the number of industrial accidents fell 22 per cent, from 13,600 to 10,602. There were 400 cases of occupational diseases confirmed in the year.

Inspection and Enforcement

The department adopts a risk-based approach to inspect workplaces to ensure compliance with occupational safety and health laws, particularly in high-risk industries and work processes such as work-at-height activities, and at organisations with poor safety records. Special enforcement operations target workplaces and trades which tend to be risk-prone, such as new construction sites; repair, maintenance and alteration works sites; waste management premises; logistics, cargo and container handling areas, and food and beverage services. Enforcement is strengthened in the summer to protect outdoor workers from heatstroke.

In 2018, the department served 2,816 improvement notices on companies and other organisations, urging them to improve safety conditions promptly, and 647 suspension notices to stop those work activities or the use of plant or substances that posed imminent risks of death or serious bodily injury to employees. The department secured 2,431 convictions, resulting in penalties totalling \$25.63 million.

Promotion and Education

The Labour Department works with the Occupational Safety and Health Council (OSHC), other government departments, major trade associations and labour unions to raise awareness of occupational safety and health and the relevant laws among employers and employees in different industries. It promotes the Occupational Safety Charter, which urges employers and employees to maintain a safe and healthy environment at their workplaces, and organises safety award schemes for the construction and catering industries. In 2018, the department held 2,132 courses, lectures and talks for over 72,200 employees.

The department also works with the OSHC, Construction Industry Council, employers' associations and workers' unions to promote the prevention of musculoskeletal disorders to industries such as catering and retail services, and to publicise heatstroke prevention measures at construction sites and other outdoor workplaces. In 2018, the department produced a set of new guidelines on how to prevent health risks associated with standing at work.

Occupational Health Clinics

The department provides occupational health services to workers at its occupational health clinics in Kwun Tong and Fanling. It held 10,890 clinical consultations with workers in 2018.

Occupational Safety and Health Council

Through training, promotion, consultancy, research and information services, the OSHC partners with different industries to improve their work safety and health standards. An ongoing

campaign with government departments, 'Joyful@Healthy Workplace,' seeks to raise awareness of healthy living among the working population and promotes mental health.

In 2018, the OSHC developed the OSH Immersive Experience Hall using virtual reality technology to simulate a real-incident experience for trainees and convey the importance of adopting safety measures. It also joined hands with the insurance industry to launch a two-year pilot scheme to provide injured workers in the construction and other specified industries with timely occupational rehabilitation support to facilitate their early return to work.

Websites

Census and Statistics Department: www.censtatd.gov.hk

Continuing Education Fund: www.wfsfaa.gov.hk/cef

Employees Retraining Board: www.erb.org

Immigration Department: www.immd.gov.hk

Interactive Employment Service: www.jobs.gov.hk

Labour and Welfare Bureau: www.lwb.gov.hk

Labour Department: www.labour.gov.hk

Occupational Safety and Health Council: www.oshc.org.hk

Security Bureau: www.sb.gov.hk