

EO Files (August 2017) “THINGS WE DO, PEOPLE WE MEET – Reflections in Brief”

Equality for part-time workers

Alfred C M CHAN calls for updated legislation so that those who don't work full-time, many of whom are women in low-paid jobs, are not left out

The discussion about employment benefits for part-time employees has been ongoing for some years as part of a wider discussion about the system of employment benefits.

Under the Employment Ordinance, continuous employment is defined as working for the same employer for four weeks or more, and for at least 18 hours a week. Only employees engaged under a continuous contract are entitled to most benefits, including sick leave, annual leave and annual pay, rest days, maternity and paternity leave and pay, end-of-year bonus, and the right to claim unreasonable dismissal.

Those working less than 18 hours per week can be described as “part-time employees”, and those working less than four weeks as short-term casual employees. Of concern is the impact of the employee policies on part-time workers. We believe the system raises an issue of equality between part-time and full-time employees, but also because women are disproportionately affected.

Government's statistics from 2011 indicate that 76.3% – 42,900 – of part-time employees working less than 18 hours per week were women. Many were in low-paid jobs and poor. Statistics in 2015 also showed that one in six women live below the poverty line.

The policy regarding part-time employees, therefore, puts women in a disadvantaged position by denying them most employment benefits, and contributes to the perpetuation of their poverty.

Thus, the Government should review and reform the current system, introducing either a “pro rata” system or full entitlements for part-time employees.

For example, if a person worked two-fifths of a normal working week, they should be entitled to two-fifths of the normal annual leave, sick leave and similar benefits. In relation to maternity and paternity rights, part-time employees should have the same benefits as full-time employees rather than pro rata.

Similar systems for part-time employees are common in many other jurisdictions around the world, such as in the European Union and Australia. In the European Union, the part-time employees' legislation must be implemented by the 28 Member States, which requires that all part-time employees be provided pro-rata benefits unless a difference in treatment can be justified.

Pro-rata entitlements also apply in a number of Asian jurisdictions which are typically thought of as having less favourable employment rights as Western countries. For example, Singapore, Taiwan, Japan and South Korean all have, at least to some degree, pro-rata employment benefits.

In relation to maternity and paternity leave, part-time employees in jurisdictions such as the United Kingdom, Australia, Singapore and Taiwan all have the same entitlements as full-time employees.

Providing adequate employment benefits to part-time employees would not only ensure they are treated fairly, but could attract more people, especially women, to join the labour force. They are also more likely to stay with an employer, and be more productive. This could help ease the manpower shortage, especially in the retail and catering sector that employs a large number of part-time employees.

We have raised these issues with the Government, and highlighted the need to address the situation. The new Secretary for Labour and Welfare Dr LAW Chi-kwong recently noted that there has been a rise of 17% in part-time workers (from 128,000 in 2011 to 150,000 part-time workers in 2016), and that as a result their situations should be focused on. We hope the new Administration will review and soon put forward legislative amendments to ensure equality for part-time employees.

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(Note: A version of this article was originally published in the *South China Morning Post* on 14 August 2017.)