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Re: Foreign Domestic Help Drivers

I understand Legco will meet on 16 November to further discuss this issue. I hope that the comments below can be taken into consideration.

1. I understand that the Labour and Immigration departments would not approve a contract for a foreign domestic helper if the parties admitted that the employee's sole job was to be a driver. Hence if there are a number of foreign domestic helpers who are full time drivers then they are only here because their employers have misled the authorities.
2. These departments do approve contracts for foreign domestic helpers but I cannot find anywhere a definition of the function of a foreign domestic helper. If foreign domestic helpers are not allowed to drive, I assume this must already be stated somewhere. One would assume that there is a list of permitted duties or prohibited activities which is available to the public. If not how can employers and employees know if they are breaking the law?
3. If the Administration is going to enforce the law as regards drivers, always assuming that it does exist already to prevent foreign domestic helpers from doing some driving incidental to their domestic duties in the home, are they also going to enforce the law about foreign domestic helpers doing other duties outside the household? (eg. working in employer's office premises). In theory the foreign domestic helper has redress via the Labour Department but it is pretty ineffective and they will not prevent the employer from taking on another foreign domestic helper who will presumably be treated the same.
4. There are numerous foreign domestic helpers working in shops and restaurants etc. in Hong Kong as everyone knows. It seems to me that there are only four ways that foreign domestic helpers can be here, and this would equally apply to other non-HK people:
 - As workers under a "domestic helper" contract where they are not allowed to work in shops etc. as this can hardly said to be incidental to their domestic duties.
 - As spouses of people who are allowed to be here.

- As people approved by the Immigration Department whose employers have sponsored them. They are unlikely to be shop assistants or waitresses.
- Illegally, eg. as overstayers.

If the Administration is correct in saying that foreign domestic helpers are already not allowed to drive, I should like to challenge them to enforce the law as regards all other “foreign domestic helper” type workers who are also presumably doing the good people of Hong Kong out of jobs in shops, offices, restaurants, etc. (not to mention night-clubs!). I suggest these latter situations are far more serious than the few true foreign domestic helpers who do occasional or incidental driving.

5. I understand that the basis of the Motor Transport Workers General Union’s initiative is based on the presumption that the foreign domestic helpers are taking away jobs from local workers. Yet in their own survey they only identified 407 such jobs taken up by foreign domestic helpers and even if this is the case it appears that if they have been able to identify such foreign domestic helpers in full time employment as chauffeurs it contravenes (1) above. If, as I expect, many of the 407 are doing driving which is “incidental” to their other duties then in reality there would be very very few of the 407 “drivers” noted above replaced by local workers. This puts the issue into perspective; there would not appear to be many jobs to be gained by local drivers by perusing this compared with the number of potential jobs in other sectors noted above.
6. There are many employers of foreign domestic helpers who use their helper to do occasional driving duties. For example, foreign domestic helpers will take children to/from school or other activities, take dogs to the vet, drive dogs to country parks for exercise or drive to the supermarket when there is heavy shopping to be carried. All of this is incidental to domestic duties and is currently permitted by the regulations. It is nonsense to suggest that if foreign domestic helpers were not permitted to drive full time local drivers would be hired in their place. Instead we would manage without the driving and would incur considerable personal inconvenience in the process.
7. I assume that there is currently no law which would prevent a foreign domestic helper from owning a car which he could drive in his free time. The proposed legislation, if I have properly understood its purpose and effect may prevent this, is discriminatory, will inconvenience a number of currently law abiding members of the public and appears to be being put in place through misconceived ideas. Furthermore, any such new legislation would be quite impractical to manage without causing offence to all foreigners driving in Hong Kong and/or it would be discriminatory to say the least.

Yours faithfully

John Harrison