



Hong Kong Federation of Asian Domestic Workers Unions
香港亞洲家務工工會聯會

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Hong Kong Federation of Asian Domestic Workers Unions (FADWU)
Statement on the Revised Code of Practice for Employment Agencies

23 May, 2024

(中文版見下)

The HKSAR government promulgated the revised Code of Practice for Employment Agencies (CoP) on 9 May this year. FADWU finds the revised CoP disappointing as there is no further action for legislation. Instead, we are concerned that some new revisions can undermine MDWs' rights and lead to widespread abuse and exploitation.

Regarding overcharging

The CoP was promulgated in 2017, but the situation of private employment agencies (EAs) overcharging MDWs has never been improved. A [research by FADWU](#) in 2022 shows 100% of EAs in violation of the CoP, with 56% illegally overcharging MDWs, but the law enforcement is basically non-existent. Among 57 overcharging cases FADWU handled in 2022 and 2023, only one was convicted by the court with a fine of mere \$8,000, and the EA license is still not revoked. In contrast, each worker was charged an average \$19,000. The CoP is proven to be a failure in protecting MDWs rights. We are disappointed that the government failed to admit it or seek legislative measures.

Regarding “job-hopping” accusation

The new CoP is deterring MDWs from exerting our right to terminate, forcing us to tolerate exploitation, dehumanize and devalue us and possibly adding financial burden to us by requiring EAs to offer employers a replacement or refund. We are deeply disturbed that the Labour Department sees MDWs who exert our rights to terminate a contract as an abuse. It is misleading to the public to think MDWs don't have the right to terminate contracts, which is an innate right to all workers. It will bring serious repercussions to the society to think that MDWs are slaves and can be easily replaced. This year FADWU assisted two workers [who only worked 10-15 days and were terminated by their employers](#). Employers can change workers as much as they like and that is not considered an abuse. It is a serious discrimination and a threat to MDWs' human rights.

Everyone has the right to seek better working conditions and wages. If MDWs are treated well by employers, no one will terminate a contract, knowing that if we do, we would lose income when waiting for a visa at home country, and unscrupulous EAs would take advantage of us and charge illegal fees.

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The Labour Department should look into the reason for termination and strive to protect MDWs from being abused or exploited. It is the government responsibility to educate MDWs about their rights. The government has been conducting mandatory briefing for migrant workers under Enhanced Supplementary Labour Scheme. This should extend to MDWs as well.

It is imperative and a real need for employers to understand MDWs' rights as an employer. The government should adopt Singapore practice to require employers to go through mandatory training and acquire a valid certificate before they can hire a domestic worker.

Regarding confiscation of identity documents

The new CoP still enables EAs to withhold MDWs passports during visa application. We would like to remind the public that the visa application in Hong Kong DOES NOT necessarily require the original passport. Even if it is needed, MDWs can present it themselves. There is no valid reason for EAs to hold workers passports or personal identification documents, except to exert control over the worker. It should be banned for EAs to withhold workers' identity documents under any circumstance.

Regarding boarding house

MDWs have been sheltering the cost of boarding houses in Hong Kong, although by law the total amount charged by EAs should not exceed 10% of the first month salary. The new requirement would increase the cost of EAs to operate the boarding house, which would eventually be transferred to MDWs as more cost. The Hong Kong government imports MDWs to take care of the society's care needs. MDWs have saved trillions of money for the government's investment on the care economy. According to the EOC, [MDWs contribute to 3.6% of the city's economy](#). The care needs of MDWs should also be taken care of by the government. The government should take the responsibility and invest in free shelters for MDWs during transition, instead of shaking it off on private households, EAs and individual workers.

Regarding Privacy

We appreciate the government's effort to protect the privacy of MDWs, but sadly the reality is that the privacy of MDWs is wildly flouted. MDWs' name, photos, identity documents, and family status are openly posted online or offline. It is questionable how the new CoP will be implemented.

FADWU demands to:

1. Legislate that any violation of CoP will result in revoking of license, fine and imprisonment;
2. The government to conduct a total review of policies regarding "job-hopping", to acknowledge and equally protect migrant domestic workers rights to change jobs;
3. Ensure migrant domestic workers do not suffer any kinds of punishment (e.g., overcharging) from executing the right to terminate contact;

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4. Provide mandatory briefing sessions to all migrant domestic workers and employers who sign a new contract;
5. Legislate that it is illegal for an employment agency or employer to hold personal documents of migrant domestic workers, and add in the standard employment contract

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香港亞洲家務工工會聯會
對勞工處修訂《職業介紹所實務守則》之立場書

2024年5月23日

特區政府於今年5月9日公佈了修訂後的《職業介紹所實務守則》（《實務守則》）。香港亞洲家務工工會聯會（FADWU）認為該修訂令人十分失望，因為政府未有進一步立法行動，相反，我們擔心一些新的修訂會削弱家務工的權利，導致更多的虐待和剝削發生。

關於超收中介費

《實務守則》自 2017 年公佈至今，家務工被私人中介公超收非法中介費的情況從未改善。FADWU 在 2022 年發布的一項研究顯示，100% 的中介公司違反了《實務守則》，其中 56% 的中介公司非法超收中介費，但亂象無王管。2022 年和 2023 年 FADWU 總共處理 57 宗超收費的案，只有一宗被法院判定有罪，罰款僅為 8000 元，並且中介公司的牌照仍未被撤銷。相比之下，每位工人平均被收取超過 19000 元。《實務守則》在保護家務工權利方面被證明是失敗的。我們對政府未能承認這一點或尋求立法措施感到失望。

關於「跳工」指控

新的《實務守則》阻嚇家務工行使我們終止合約的權利，迫使我们容忍剝削，貶低我們的人格，並且可能增加我們的經濟負擔，因為要求政府要求中介公司為僱主提供替換或退款的選項。工會對勞工處把工人行使終止合約的權利視為“濫用”感到深深不安。該舉誤導公眾以為家務工沒有權利終止合約，家務工是奴隸並可以輕易被替換，將給社會帶來嚴重後果。今年，FADWU 協助了兩名僅工作了 10-15 天就被僱主解雇的工人。僱主可以隨意更換工人，但這並不被視為“濫用”。這是嚴重的歧視行為，對家務工的人權構成威脅。

每個人都有權尋求更好的工作條件和薪水。如果僱主善待家務工，沒有人會終止合約，因為我們知道，如果這樣做，我們在家鄉等待簽證時會失去收入，而不良中介會利用我們濫收中介費。

勞工處應該調查工人終止合約的原因，並努力保護工人免受虐待或剝削。政府有責任教育工人他們的勞工權益。政府一貫要求通過補充勞工計劃輸入的外勞參加強制性的僱傭權益簡介會，該措施應該擴展到家務工。

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讓僱主了解家務工的權益，對於僱主來說是非常必要並且有強烈需求的。政府應該採取新加坡的做法，要求僱主接受強制性培訓並取得有效證書，然後才能聘請外籍家務工。

關於沒收身份文件

新的《實務守則》仍然允許中介在簽證申請期間扣留工人的護照。我們想提醒公眾，香港的簽證申請並不一定需要原始護照。即使需要，工人也可以親自提供。中介公司扣留工人護照或個人身份證明文件沒有任何正當理由，除了對工人施加控制。在任何情況下，中介扣留工人的身份文件都應該被禁止。

關於宿舍

家務工一直在承擔香港中介宿舍的費用，儘管根據法律，中介公司收取的費用總額不應該超過首月工資的10%。新的《實務守則》將增加中介公司經營宿舍的成本，最終會轉嫁給家務工。香港政府引進家務工是為了滿足社會的照顧需求。外籍家務工為政府在照護經濟上的投資節省了數以兆計的資金。根據平等機會委員會的報導，家務工貢獻了香港經濟GDP的3.6%。政府也應該照顧家務工的照顧需求。政府應該承擔責任，投資中途宿舍，為家務工提供免費住宿，而不是把這責任推卸到私人家庭、中介和個別工人身上。

關於隱私

我們感謝政府保護家務工隱私的努力，但可悲的是，家務工的隱私經常被嚴重侵犯。工人的姓名、照片、身份文件和家庭狀況經常被公開在網上或鋪頭。我們對政府如何實施新的《實務守則》仍有疑問。

工會要求政府：

1. 立法規定，任何違反《實務守則》的行為將導致吊銷執照、罰款和監禁；
2. 政府對「打擊跳工」政策進行全面審查，承認並平等保護外籍家務工更換工作的權；
3. 確保外籍家務工在行使終止合約的權利時不受任何懲罰（例如超收費用）；
4. 要求所有簽新合約的外籍家務工和僱主參加僱傭權益簡介會；
5. 立法禁止中介公司或僱主扣留外籍家庭傭工的個人文件，並加入標準僱傭合約。

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