

What is the Two-Week Rule?

The New Conditions of Stay or the “Two-week Rule” is a HKSAR Government policy which was put into place in 1987 in an effort to protect the local labour force and respond to employer allegations that Migrant Domestic Workers (MDWs) were “job hopping” and “moonlighting”. *Job hopping and moonlighting are terms used to describe individuals who are employed in more than one place and move between new jobs frequently.*

Under the Two-week Rule (as implemented by the Immigration Department): migrant workers are forbidden from changing jobs in the first two years of their employment; they cannot apply for a new job from within Hong Kong if they break their contract; they cannot work for multiple employers or outside of their field of work; they do not qualify for permanent residency no matter how long they have been living in Hong Kong; and they must leave HKSAR within two weeks after termination in order to avoid criminal prosecution.

There are a few exceptions to the Rule, but they are limited, difficult to invoke, and are rarely granted by immigration officials even in cases of abuse.

What are the discriminatory effects of the Rule on MDWs?

The Rule directly targets MDWs as they are the largest group of migrant workers in Hong Kong. As a result of the Rule, they are not accorded the same rights to freely change employers or apply for

permanent residency, which are enjoyed by all other foreign “professionals” working in HKSAR.

The majority of MDWs are women who already come from disadvantaged educational and economic backgrounds. Many of these workers are forced to endure deplorable work conditions so that they can save money and send it home to their families who depend on their overseas income for their survival.

The application of the Rule overtly favours employers and recruitment agencies and exacerbates the number of incidences of workplace exploitation. Recruitment agencies profit from the fact that MDW must leave the country at the end of each employment contract. Unscrupulous agents capitalize on the vulnerable situation of MDWs by charging exorbitant fees, and coercing MDWs into staying in poor work situations by confiscating their documents, misrepresenting their claims and escalating their personal debts.

Employers benefit from the restrictiveness of the policy as they are able to hire a captive work force without having to accord them their fundamental human rights. Due to the more privileged position they occupy both as employers and HKSAR citizens, they are rarely sanctioned for breaching the work standards set out in the Employment Ordinance and other applicable labour legislations. MDW bear the difficult burden even in situations of abuse of having to gather evidence and provide sufficient proof to file a case at the Labour and Immigration Department. Employers on the other hand benefit from the double standard built into the Rule and they are allowed to terminate MDWs without notice

or proof of any neglect or contract violation on behalf of the MDW.

In effect, the strict time frames and harsh conditions imposed on MDWs under the Two-week rule fail to account either for the length of time it takes for MDWs to find new employment after they leave a job, or to commence legal action to exercise their right to fair and just work conditions.

Two weeks is too short for any MDW: to confront employers and recruitment agencies who refuse to provide documentation needed to file a case; to raise the money to pay for the excessive visa renewal fees; to deal with resistant government officials who snub reports of abuse; to apply for extension visas; to find a lawyer; to apply for legal aid; to look for a new place to live; and to find a new way to survive in a foreign country whose rules fail to account for all of the legal constraints, discrimination and administrative barriers that MDWs confront on a daily basis in Hong Kong.

What do MDWs want?

MDWs want the Hong Kong Government to recognise the discriminatory effects of the Two-week Rule and the significant contributions MDWs make to HKSAR's society by according them the same rights as all other workers in Hong Kong and to abolish the Two-week Rule.

MDWs want labour sending and receiving countries to support them in their efforts by collaborating on joint campaigns between countries, and in

consultation with NGOs, to put pressure on the HKSAR Government to abolish the Rule.

MDWs want all member states of the UN to review their existing procedures and policies on migrants, and their new bi-lateral and multi-lateral agreements on labour, to ensure that these are in line with internationally accepted norms and principles of human rights.

MDWs want all member states of the UN to uphold the recently adopted UN Convention on the Rights of Migrants and Members of their families, which sets the standard for equal treatment and protection of all migrant workers.

Partner Organisations for the project:

Asia Pacific Forum on Women, Law and Development (APWLD)
 Asia Pacific Mission for Migrants (APMM),
 Asian Migrants Coordinating Body (AMCB),
 Asosiasi Tenaga Kerja Indonesia di Hong Kong (ATKI)
 Associations of Sri Lankans (ASL)
 Bethune House Migrant Women’s Refuge (BHMWR)
 Far East Overseas Nepalese Association (FEONA)
 Friends of Thai (FOT)
 Mission for Filipino Migrant Workers (MFMW),
 Thai Regional Association (TRA)
 United Filipinos – Hong Kong (UNIFIL-HK),

List of acronyms used:

ADWU	Asian Domestic Workers Union
AFDE	Association of Filipino Domestic Employees
AMC	Asia Migrant Centre
AMCB	Asia Migrants Co-ordinating Body
APMMF	Asia Pacific Mission for Migrant Filipinos
CEDAW	Committee on the Elimination of all Forms of Discrimination Against Women
CERD	Committee on the Elimination of Racial Discrimination
CMR	Coalition on Migrants Rights
MDWs	Migrant Domestic Workers
FOWG	Filipinos Overseas Workers Groups
HK	Hong Kong
HK-SAR	Hong Kong – Special Administrative Region
HKTUEC	Hong Kong Trade Union Education Centre
HKCTU	Hong Kong Confederation of Trade Unions
JOU-HK	Joint Organisations of Unions – Hong Kong
MFMW	Mission for Filipino Migrant Workers
NCS	New Condition of Stay
UNFAIR	United Filipinos Against Injustice and Racism
UNIFIL-HK	United Filipinos – Hong Kong

