

For meeting on
10 November 2020

Employment Ordinance (Chapter 57)

Employment (Amendment) Ordinance 2020 (Commencement) Notice

Purpose

This paper briefs Members on the Employment (Amendment) Ordinance 2020 (Commencement) Notice (Commencement Notice) and related matters.

Background

2. The Employment (Amendment) Ordinance 2020 (Amendment Ordinance) was passed by the Legislative Council (LegCo) on 9 July 2020. The Government published the Commencement Notice in the Gazette on 9 October 2020 in which the Secretary for Labour and Welfare (SLW) appointed 11 December 2020 as the day on which the Amendment Ordinance would come into operation¹. If the Commencement Notice is supported by LegCo, the Amendment Ordinance will take effect from 11 December 2020. The Commencement Notice is at Annex.

3. The Amendment Ordinance seeks to increase maternity leave (ML) under the Employment Ordinance (EO) by four weeks, which should be taken by the employee continuously after the 10 weeks' ML, if so entitled. The current statutory rate of maternity leave pay (MLP) (i.e. four-fifths of the employee's average daily wages) will be maintained for calculating the additional MLP in respect of the extension of ML, subject to a cap of \$80,000 per employee. The employer would be required to pay the additional four weeks' MLP to the employee on the normal pay day – same as what they are currently required to do in respect of the first 10 weeks' MLP. Employers may, by way of reimbursement, apply to the Government for full reimbursement of the additional MLP that is required to be paid and has been paid under the Amendment Ordinance.

¹ According to section 1(2) of the Amendment Ordinance, the Amendment Ordinance comes into operation on a day to be appointed by SLW by notice published in the Gazette.

4. The Amendment Ordinance also covers two technical amendments which include updating the definition of “miscarriage” under EO from “before 28 weeks of pregnancy” to “before 24 weeks of pregnancy” to entitle a female employee whose child is incapable of survival after being born at or after 24 weeks of pregnancy to ML if other conditions are met; and accepting a certificate of attendance issued by a medical professional as documentary proof for entitling an eligible employee to sickness allowance for any day on which the employee has attended a medical examination in relation to her pregnancy.

Implementation Arrangements of the Amendment Ordinance

5. During the run-up to the implementation of the Amendment Ordinance, the Labour Department (LD) has started launching publicity and promotional work to promote public awareness and understanding of the new provisions. This will be conducive to the smooth implementation of the new legislation.

6. In tandem with the implementation of the Amendment Ordinance, LD is formulating a new Reimbursement of Maternity Leave Pay (RMLP) Scheme. During deliberations of the Panel on Manpower of LegCo on the amendment bill of the Amendment Ordinance, Members urged for early implementation of the proposed extension of four weeks’ statutory ML, which is also the general expectations of the community. To this end, the Government has decided to outsource the administration of the RMLP Scheme to a private sector processing agent so as to speed up the implementation process. On 3 July 2020, the Finance Committee of LegCo approved the funding for appointing a processing agent to implement the RMLP Scheme.

7. LD set up the Preparatory Office for Reimbursement of Maternity Leave Pay (PORMLP) in the second quarter of this year to coordinate and commence the preparatory work for the RMLP Scheme. PORMLP has issued the tender documents for the RMLP Scheme with a view to appointing the processing agent by the end of this year and implementing the RMLP Scheme as soon as practicable in the first half of next year.

Labour and Welfare Bureau
Labour Department
November 2020

L.N. 205 of 2020

**Employment (Amendment) Ordinance 2020
(Commencement) Notice**

Under section 1(2) of the Employment (Amendment) Ordinance 2020 (13 of 2020), I appoint 11 December 2020 as the day on which the Ordinance comes into operation.

Dr. C. K. LAW
Secretary for Labour and Welfare

28 September 2020