

For Information

**LEGISLATIVE COUNCIL PANEL ON ADMINISTRATION
OF JUSTICE AND LEGAL SERVICES**

**Provision of paternity leave
to Judges and Judicial Officers**

PURPOSE

This paper informs Members of the arrangements for the provision of paternity leave to judges and judicial officers (JJOs) with effect from 3 May 2012.

DETAILS

Background

2. Paternity leave generally refers to leave taken by a father/father-to-be from his work around the time of the birth of his child. It is a family-friendly measure which enables a working father/father-to-be to have some time off to take care of the newborn and his wife before/after her confinement. Following the announcement of the Chief Executive (CE) in his 2011-12 Policy Address that the Government will take the lead in promoting this family-friendly measure, the Administration recently announced that with effect from 1 April 2012, five working days of paternity leave on full-pay basis will be provided to eligible government employees (including civil servants, non-civil service contract staff and political appointees) on the occasion of each child birth within marriage as a start. The Secretary for the Civil Service (SCS) has the discretion to grant the same paternity leave to eligible employees on the occasion of childbirth outside of marriage on a case-by-case basis.

Proposal of the Judiciary

3. The CE-in-Council decided in May 2008 that the determination of the remuneration package of JJOs, including their benefits and allowances, should be subject to a different mechanism separate from that of the civil

service. As such, the Administration's decision to provide paternity leave to government employees as detailed in paragraph 2 above does not include JJOs. In this connection, the Judiciary proposes that paternity leave on the same terms and conditions applicable to other government employees should be provided to JJOs.

4. The proposal of the Judiciary was examined by the Standing Committee on Judicial Salaries and Conditions of Service (the Judicial Committee)¹, which is tasked, among others, to advise and make recommendations to the CE on salary and conditions of service and benefits appropriate to each rank of JJOs. The Judicial Committee supported the proposal.

Arrangements for the provision of paternity leave to JJOs

5. Taking into account the recommendation of the Judicial Committee, the Chief Executive has agreed to provide paternity leave to JJOs with effect from 3 May 2012 on essentially the same terms and conditions as applicable to other government employees. Major features of the arrangements are as follows -

- (a) five working days of paternity leave on full-pay basis will be provided to eligible JJOs on the occasion of each childbirth within marriage as a start;
- (b) the Chief Justice has the discretion to grant paternity leave to eligible employees on the occasion of childbirth outside of marriage on a case-by-case basis. In exercising his discretion, the Chief Justice will take into account all relevant considerations and will also make reference to the factors that would be taken into account by SCS in exercising similar discretion in respect of government employees;
- (c) all substantive male JJOs with not less than 40 weeks' continuous Government service immediately before the expected or actual date of childbirth will be eligible for paternity leave. In this connection, continuous Government service of 40 weeks (and not just continuous service in the Judiciary) is adopted since some JJOs may have service in the civil service (e.g. Department of Justice) carried forward to the judicial service;

¹ The Judicial Committee is chaired by Mr Bernard Chan. Other members are Mr CK Chow, Mr Lester Huang, Prof Chan Yuk-shee, Mr Brian Li, Mrs Ayesha Macpherson Lau and Mr Benjamin Yu.

- (d) paternity leave will be provided irrespective of the number or place of childbirth to eligible JJOs;
- (e) paternity leave should be taken during the period from four weeks before the expected date of childbirth to eight weeks after the actual date of childbirth; and
- (f) any untaken paternity leave should not be allowed to be carried forward to a future childbirth.

Financial and staffing implications

6. Having regard to the incidence of childbirth among male JJOs in recent years², the staffing implications arising from the implementation of paternity leave for JJOs should be insignificant and the actual impact on the Judiciary should be manageable. While there may be some additional financial implications in the form of expenditure for the engagement of temporary judicial resources, the Judiciary would absorb it from within its existing provision.

ADVICE SOUGHT

7. Members are invited to note the implementation of the provision of paternity leave to JJOs on the terms and conditions as detailed in paragraph 5 above.

Administration Wing
Chief Secretary for Administration's Office
May 2012

² As at 1 April 2012, there are 111 male JJOs. According to the Judiciary, a total of three children were born to male JJOs in the past four years (2008-2011).