



1. Introduction

1.1 In Hong Kong, a pregnant employee who has been employed under a continuous contract¹ is entitled to maternity leave of 70 days (10 weeks) under the Employment Ordinance (Cap. 57). Moreover, if she has been under a continuous contract for not less than 40 weeks immediately before the leave, the maternity leave carries a statutory pay calculated at a daily rate equivalent to 80% of her average daily wages. The cost of paid maternity leave to employees is entirely borne by employers, unlike the contributory social insurance scheme seen in many places in the world. The existing statutory provision of paid maternity leave has stayed unchanged for two decades since the latest legislative amendment in 1995.²

1.2 At its meeting on 17 May 2016, the Panel on Manpower discussed the provisions of statutory maternity leave in Hong Kong. The Research Office is subsequently requested to conduct a follow-up study on paid maternity leave in selected places. This information note begins with a summary of the most recent global developments, in the light of the dedicated statistics on maternity leave compiled by the International Labour Organization ("ILO") in 2014. It is followed by a brief discussion on maternity leave provisions in eight selected places, half of which located in Asia and the other half in Europe and North America, along with two summary tables of their salient features (**Appendices I and II**).³

¹ Under the Employment Ordinance, an employee who has been employed continuously by the same employer for four weeks or more and has been working for at least 18 hours each week is regarded as employment under a continuous contract in Hong Kong.

² In 1970, statutory maternity leave was first introduced under the Employment Ordinance, but the leave was without pay. After a legislative amendment in 1981, pregnant employee under continuous employment for not less than 40 weeks was entitled to maternity leave pay equivalent to two-thirds of her daily wages. In 1995, the statutory pay of maternity leave was raised to four-fifths of daily wages.

³ These eight places are Singapore, South Korea, Taiwan, Japan, the United Kingdom, Sweden, Canada and the United States. These places are selected because their socioeconomic developments are broadly comparable to those of Hong Kong.

2. Recent global developments on maternity leave

2.1 Altogether, ILO has adopted three Maternity Protection Conventions, with the first one at its inception in 1919 and subsequent revision in 1952 and 2000, stipulating "protective measures for pregnant women and for women who have recently given birth".⁴ Based on the most recent Maternity Protection Convention (No. 183) adopted in 2000, ILO recommends that maternity leave should have three key features, namely (a) leave duration of at least 14 weeks; (b) paid leave at a rate of at least two-thirds of previous earnings; and (c) funding from contributory social insurance schemes or public funds, as they can provide better protection to female employees compared with employer liability schemes.⁵

2.2 So far, just 66 places (36% of 185 places under study) have ratified at least one of the three maternity leave conventions. However, ILO recommendations are still considered to "have had a very broad influence" for those places which have not ratified the convention. According to its most recent study published in 2014 on maternity leave provision of its 185 members,⁶ ILO comes up with the following key findings:

- (a) **Duration of maternity leave:** There has been a "global shift towards maternity leave periods that meet or exceed the ILO standard of 14 weeks". Among the 185 places studied, 53% (98 places) provided maternity leave of 14 weeks or more, while 32% (60 places) provided 12-13 weeks. Only 15% (27 places) provided maternity leave of less than 12 weeks.⁷

⁴ Maternity Protection Conventions lay down only the basic principles for implementation by the members. They become binding only when the members registered their ratifications with the ILO, otherwise ILO recommendations serve as guidelines only.

⁵ According to the research findings of ILO, maternity leave under employer liability schemes may discourage employers to hire, retain or promote pregnant workers or women with family responsibilities. See International Labour Organization (2014a), p. 22.

⁶ When ILO conducted the study in 2014, it had 185 members. In January 2017, ILO had 187 members.

⁷ See International Labour Organization (2014a), p. 9.

- (b) **Pay rate of maternity leave:** Out of the 178 places with sufficiently detailed data on this part of study, about 87% (154 places) provided paid maternity leave at a rate of at least two-thirds of previous earnings. Some 74% (132 places) even provided such leave at a rate of at least four-fifths of previous earnings.⁸
- (c) **Source of funding of paid maternity leave:** Among the 185 places surveyed, 58% (107 places) provided paid maternity leave through contributory social security schemes, while 25% (47 places) provided it through employer liability schemes. For the rest of 16% (29 places), cost was mostly shared by employers and social security systems.⁹ It was also noted that there had been a shift from employer liability systems to collective social insurance systems over the past decades.

3. Maternity leave in selected places in Asia

3.1 In **Singapore**, maternity leave was introduced under the Employment Act (Part IX) in 1968, with the duration of leave subsequently extended to 112 days (16 weeks) since 2008.¹⁰ For Singapore citizens, pregnant employees under continuous contracts for at least three months are entitled to full pay (i.e. 100%) during the maternity leave. In terms of cost incidence, for the first and second child, although employers pay for the entire leave period, they can claim reimbursement from the government for the last eight weeks, subject to reimbursement ceiling of S\$10,000 (HK\$56,200) for every four weeks.¹¹ For the third child and subsequent children, the government reimburses the paid leave throughout the 16-week period, subject to the same payment ceiling.

⁸ See International Labour Organization (2014a), Appendix II.

⁹ Two places or 1% of places under study do not have paid maternity leave.

¹⁰ In Singapore, the statutory duration of maternity leave was 56 days in 1968, but was progressively extended to 84 days in 2004, and further to 112 days in 2008.

¹¹ If the reimbursement ceiling is lower than the employees' earlier earnings, employers may voluntarily choose to pay for the shortfall.

3.2 In **South Korea**, maternity leave was introduced under the Labor Standards Act (Chapter V) in 1953, with the duration of leave extended to 90 days (12.9 weeks) since 2001.¹² If the female employees have served the company for at least 180 days, they are entitled to full pay throughout the leave period.¹³ Employers are responsible for payment of maternity leave for the first 60 days, while the Employment Insurance bears the cost of the remaining 30 days subject to a monthly ceiling of 1.35 million won (HK\$9,045).¹⁴ In case this payment ceiling for the last 30 days is lower than the actual earnings of the employees, employers need to make up the payment shortfall.¹⁵

3.3 In **Taiwan**, the current form of maternity leave was introduced under the Labor Standards Act (Article 50) in 1984, with the duration of leave kept unchanged at 56 days (eight weeks) since then. If the female employees have served the company for at least six months, they are entitled to full pay throughout the maternity leave.¹⁶ Employers bear all the cost of paid maternity leave.

3.4 In **Japan**, maternity leave was introduced under the Labor Standards Act (Chapter VI) in 1947. The current duration is 98 days (14 weeks) for all female employees. If the employees are covered by the Employees' Health Insurance scheme, they are also entitled to paid maternity leave at a rate equivalent to two-thirds of the daily standard earnings of the employees.¹⁷ In other words, the cost of paid maternity leave is funded from a collective social insurance system.

¹² In South Korea, the statutory duration of maternity leave was 60 days in 1953 and was later extended to 90 days in 2001.

¹³ Those who have worked less than 180 days are entitled to maternity leave with full pay for the first 60 days.

¹⁴ In South Korea, Employment Insurance Fund comprises (a) unemployment insurance; and (b) employment security and skills development insurance. Maternity leave is subsumed into "unemployment insurance", with insurance premium equivalent to 1.3% of the monthly salary equally shared between the employer and employee.

¹⁵ For employees working in small and medium enterprises ("SME"), the 90-day leave pay is funded by the Employment Insurance with a monthly ceiling of 1.35 million won (HK\$9,045). Employers need to make up the shortfall.

¹⁶ In Taiwan, female employees serving the company for less than six months are entitled to 50% of pay during the maternity leave period.

¹⁷ In Japan, Employees' Health Insurance system covers those employees working full-time in a company with more than five employees and part-time workers whose working hours are not less than 75% of full-time workers. It is a contributory system, with both employers and employees sharing half of the contribution based on a certain percentage of the monthly salary of the employee. While the contribution rate differs across prefectures in the country, the rate in Tokyo was 9.96% in 2016.

4. Maternity leave in selected places in Europe and North America

4.1 In the **United Kingdom** ("UK"), maternity leave was introduced under the Employment Protection Act in 1975, with a current duration of 364 days (52 weeks).¹⁸ If the female employees have worked for the employers for 26 weeks and earned above the weekly thresholds¹⁹, they are entitled to statutory pay calculated at a rate of 90% of their average weekly earnings rate for the first six weeks, and at a standard rate²⁰ or 90% of weekly earnings in the following 33 weeks, whichever is lower. The last 13 weeks are unpaid. While employers make the payments, they can claim 92%-103% reimbursement from the National Insurance.²¹

4.2 In **Sweden**, maternity leave has been replaced by parental leave since 1974 to facilitate a more gender-neutral policy and encourage both mothers and fathers to perform their parental role.²² In 2016, the duration of parental leave is 480 days (68.6 weeks), within which 90 days are reserved for each parent and the rest are transferable from one parent to the other. If both working parents have served their employers for 240 days before the birth of their child, they will receive parental leave pay approximately 80% of the daily earnings, subject to a maximum annual income of SKr445,000 (HK\$382,940) for the first 390 days. For the remaining 90 days, they would be paid at a standard flat rate.²³ The parental leave pay is funded by a contributory social insurance in Sweden.²⁴

¹⁸ The Employment Protection Act 1975, along with other earlier labour laws, was updated to become the Employment Rights Act in 1996.

¹⁹ To qualify for maternity leave pay, the employee's average weekly earnings have to be at least equal to the lower earnings limit, which is £112 (HK\$1,177) per week in 2016-2017.

²⁰ In 2016-2017, the standard rate is £139.58 (HK\$1,467) per week.

²¹ The reimbursement rate is 92% for larger firms or 103% for small to medium-sized enterprises in the UK. Reimbursement is entirely funded from the pool of employers' contribution to the National Insurance. In 2016-2017, employers' contribution to National Insurance is made at a rate of 13.8% of the monthly salary of employees.

²² Parental leave is a period of longer-term leave available to either to fathers, mothers or both, to allow them to look after an infant or young child. In 2014, 66 places predominantly in advanced places and Eastern Europe had parental leave provision.

²³ As at 2016, the standard flat rate was SKr180 (HK\$155) per day.

²⁴ In Sweden, employers are required to pay social insurance on behalf of employees, with the overall premium equivalent to 31.42% of gross salary in 2017. The social insurance covers health insurance, parental insurance, retirement pension, occupational injury insurance and unemployment insurance.

4.3 In **Canada**, maternity leave was introduced under the Unemployment Insurance Act in 1971, with current leave duration of 119 days (17 weeks) in nearly all provinces and territories.²⁵ If female employees are under continuous employment of at least 600 hours, they are eligible for paid maternity leave at a weekly rate equivalent to 55% of their earnings for 15 weeks out of 17 weeks, subject to a weekly maximum of C\$543 (HK\$3,182). Two weeks of maternity leave are unpaid, however. The paid maternity leave is funded by the Employment Insurance Scheme.²⁶

4.4 For the **United States** ('US'), it is one of a few advanced places without a statutory maternity leave with pay. However, according to the Family and Medical Leave Act enacted in 1993, all employees in public agencies and private companies with more than 50 employees are entitled to 12 weeks of unpaid leave each year for family and medical reasons, including pregnancy. To be eligible for the unpaid leave, the employees have to work for the employer at least 1 250 hours in a 12-month period prior to the start of the leave.

5. Observations

5.1 The aforementioned ILO study shows that statutory maternity leave varies quite widely across the globe, both in terms of duration and pay benefits. More specifically for Hong Kong, while the 10-week duration of maternity leave appears to be shorter than most of the 185 ILO places covered in the study, the statutory pay rate of 80% of daily wages is in line with most of the places under study. As to the funding system, employers' liability scheme is adopted in Hong Kong, contrasted against the contributory social insurance system seen in more than half of the places under study.

²⁵ In Canada, the Unemployment Insurance Act became the Employment Insurance Act in 1996. Quebec was the only exception in Canada, with its own legislation on maternity leave.

²⁶ Under the Employment Insurance Scheme in Canada, employee contributes 1.63% of the monthly salary in 2017, while employer contributes 1.4 times of the employee's premiums. Both premium contributions are subject to an annual ceiling, which are equal to C\$836 (HK\$4,899) for employees and C\$1,171 (HK\$6,862) for employers in 2017.

5.2 In its earlier paper on the provision of existing maternity benefits discussed at the Panel on Manpower in May 2016, the Government stated that it has "struck a reasonable balance between the interests of employers and employees". For suggestions to further improve such benefits for pregnant employees, it needs to consider "Hong Kong's socio-economic situation and whether there is consensus in the community".²⁷

²⁷ See Labour and Welfare Bureau (2016).

Key features of statutory maternity leave in selected places in Asia

		Hong Kong	Singapore	South Korea	Taiwan	Japan
1.	Size of female labour force in 2015	<ul style="list-style-type: none"> 1.6 million (45.0%).²⁸ 	<ul style="list-style-type: none"> 1.0 million (45.5%). 	<ul style="list-style-type: none"> 11.5 million (42.5%). 	<ul style="list-style-type: none"> 5.1 million (44.2%). 	<ul style="list-style-type: none"> 28.4 million" (43.1%).
2.	Legislation on maternity leave	<ul style="list-style-type: none"> Introduced under the Employment Ordinance (Cap. 57) in 1970. 	<ul style="list-style-type: none"> Introduced under the Employment Act (Part IX) in 1968. 	<ul style="list-style-type: none"> Introduced under the Labor Standards Act (Chapter V) in 1953. 	<ul style="list-style-type: none"> Introduced under the Labor Standards Act (Article 50) in 1984. 	<ul style="list-style-type: none"> Introduced under the Labor Standards Act (Chapter VI) in 1947.
3.	Latest major legislative amendment	<ul style="list-style-type: none"> July 1995.²⁹ 	<ul style="list-style-type: none"> August 2008.³⁰ 	<ul style="list-style-type: none"> November 2001.³¹ 	<ul style="list-style-type: none"> August 2016.³² 	<ul style="list-style-type: none"> April 2007.³³

²⁸ Figures in brackets denote the respective proportion in overall labour force. They exclude foreign domestic helpers in Hong Kong and non-residents in Singapore.

²⁹ In Hong Kong, the latest amendments included raising the rate of maternity leave pay from two-thirds to four-fifths of the employee's wages in 1995.

³⁰ In Singapore, the latest amendments included extending the duration of paid maternity leave from 84 to 112 days in 2008.

³¹ In South Korea, the latest amendments included replacing 60 days of unpaid maternity leave by 90 days of paid maternity leave in 2001.

³² In Taiwan, the latest amendments included extending the coverage of maternity leave arrangements from full-time employees to part-time employees in 2016.

³³ In Japan, the latest amendments included raising the rate of maternity leave pay from 60% to two-thirds of the employee's wages in 2007.

Key features of statutory maternity leave in selected places in Asia

		Hong Kong	Singapore	South Korea	Taiwan	Japan
4.	Eligibility	<ul style="list-style-type: none"> All female employees under a continuous contract are entitled to maternity leave, but only those with continuous contract for not less than 40 weeks are entitled to paid leave. 	<ul style="list-style-type: none"> All female employees with continuous employment of at least three months are entitled to paid leave, including self-employed persons.³⁴ 	<ul style="list-style-type: none"> All female employees are eligible for maternity leave, but the duration of paid leave varies with the length of service.³⁵ 	<ul style="list-style-type: none"> All female employees with continuous employment of at least six months are entitled to paid leave. 	<ul style="list-style-type: none"> All female employees are eligible for maternity leave, but only those covered by Employees' Health Insurance system are entitled to paid leave.³⁶
5.	Statutory duration of maternity leave	<ul style="list-style-type: none"> 70 days (10 weeks).³⁷ 	<ul style="list-style-type: none"> 112 days (16 weeks).³⁸ 	<ul style="list-style-type: none"> 90 days (12.9 weeks).³⁹ 	<ul style="list-style-type: none"> 56 days (8 weeks).⁴⁰ 	<ul style="list-style-type: none"> 98 days (14 weeks).⁴¹

³⁴ In Singapore, self-employed persons engaged in the work for a continuous period of at least three months are entitled to paid maternity leave funded by the government.

³⁵ In South Korea, a female worker who has served the company for at least 180 days is entitled to paid maternity leave throughout the 90-day maternity leave period. Otherwise, the employee is entitled to maternity leave payment for the first 60 days only.

³⁶ See footnote 17.

³⁷ Default arrangement is 4 weeks before delivery and 6 weeks after delivery.

³⁸ Default arrangement is 4 weeks before delivery and 12 weeks after delivery.

³⁹ No default arrangement, but at least 45 days of mandatory leave after delivery.

⁴⁰ No default arrangement, but usually 4 weeks each before and after delivery.

⁴¹ Default arrangement is 6 weeks before delivery and 8 weeks after.

Key features of statutory maternity leave in selected places in Asia

		Hong Kong	Singapore	South Korea	Taiwan	Japan
6.	Statutory rate of leave payment	<ul style="list-style-type: none"> 80% of the monthly salary throughout the leave period. 	<ul style="list-style-type: none"> Full-pay throughout the leave period, but subject to a ceiling for the last 56 days.⁴² 	<ul style="list-style-type: none"> Full-pay throughout the leave period.⁴³ 	<ul style="list-style-type: none"> Full-pay throughout the leave period for employees with at least six months of service.⁴⁴ 	<ul style="list-style-type: none"> No statutory rate, but usually about two-thirds of the monthly salary under the insurance system.
7.	Cost incidence in maternity leave	<ul style="list-style-type: none"> Cost entirely borne by employers. 	<ul style="list-style-type: none"> For the first two children, employers and the government share the cost, but the cost entirely borne by the government for the third child and beyond. 	<ul style="list-style-type: none"> Cost for the first 60 days borne by employers, while the cost of remaining 30 days funded from the Employment Insurance Fund.⁴⁵ 	<ul style="list-style-type: none"> Cost entirely borne by employers. 	<ul style="list-style-type: none"> Cost funded from the Employees' Health Insurance system.⁴⁶

⁴² According to the Government-Paid Maternity Leave scheme under the Child Development Co-Savings Act (Part III) in Singapore, employer pays for the first two children of a pregnant employee for the 16 weeks of maternity leave, while the government reimburses the employer for the last eight weeks. At present, government reimbursement is subject to a ceiling of S\$10,000 (HK\$56,200) per four weeks. For the third child and beyond, the government reimburses the employer throughout the 16-week period, subject to the same ceiling per every four weeks. If the reimbursement ceiling is lower than the employee's earlier earnings, employer may voluntarily choose to make up the shortfall.

⁴³ In South Korea, employers are responsible for full payment of maternity of leave for the first 60 days, while the employment insurance pays for the rest of 30 days. At present, the maximum amount of maternity leave benefit available from employment insurance is 1.35 million won (HK\$9,045) per claimant for the last 30 days. In case there is any shortfall arising from the payment ceiling for the last 30 days, employers need to make up the shortfall.

⁴⁴ In Taiwan, female employees with length of service shorter than six months are entitled to 50% pay during the maternity leave period.

⁴⁵ See footnote 14.

⁴⁶ See footnote 17.

Key features of statutory maternity leave in selected places in Europe and North America

		United Kingdom	Sweden	Canada	United States
1.	Size of female labour force in 2015	<ul style="list-style-type: none"> 15.4 million (46.7%). 	<ul style="list-style-type: none"> 2.4 million (47.9%). 	<ul style="list-style-type: none"> 9.1 million (47.2%). 	<ul style="list-style-type: none"> 73.5 million (46.8%).
2.	Legislation on maternity leave	<ul style="list-style-type: none"> Introduced under Employment Protection Act in 1975.⁴⁷ 	<ul style="list-style-type: none"> Introduced under the Parental Leave Act in 1974.⁴⁸ 	<ul style="list-style-type: none"> Introduced under the Unemployment Insurance Act in 1971.⁴⁹ 	<ul style="list-style-type: none"> No statutory provision for maternity leave. According to the Family and Medical Leave Act enacted in 1993, part of the employees are entitled to 12 weeks of unpaid leave per year for family and medical reasons, including pregnancy.
3.	Latest major legislative amendment	<ul style="list-style-type: none"> April 2007.⁵⁰ 	<ul style="list-style-type: none"> January 2002.⁵¹ 	<ul style="list-style-type: none"> January 2011.⁵² 	
4.	Eligibility	<ul style="list-style-type: none"> All female employees are eligible for maternity leave, but only those under continuous employment of at least 26 weeks are eligible for paid leave.⁵³ 	<ul style="list-style-type: none"> All female employees with 240 days of paid work for the same employer are eligible for paid parental leave. 	<ul style="list-style-type: none"> All female employees are eligible for maternity leave, but only employees who have accumulated at least 600 hours of continuous employment are eligible for paid leave. 	

⁴⁷ In the UK, the Employment Protection Act and other earlier labour laws were updated to become the Employment Rights Act enacted in 1996. The current provision of maternity leave is stipulated the Employment Rights Act (Chapter VIII).

⁴⁸ Before the enactment of Parental Leave Act in 1974, female employees were entitled to 180-day paid maternity leave under the 1962 Social Insurance Code.

⁴⁹ See footnote 25.

⁵⁰ In the UK, major amendments included extending the duration of paid maternity leave from 26 weeks to 39 weeks in 2007.

⁵¹ In Sweden, major amendments included extending the duration of parental leave from 450 days to 480 days in 2002.

⁵² In Canada, major amendments included allowing self-employed persons to be eligible for maternity benefits in 2011 if they voluntarily join the Employment Insurance scheme. For self-employed persons, they are entitled to 55% of the average weekly earnings, subject to a maximum of 15 weeks.

⁵³ To qualify for maternity pay, the employee also needs to earn at least £112 (HK\$1,177) per week as at 2016-2017. Those ineligible employees may apply for maternity allowance which is a social security benefit paid by the government. In 2016-2017, the weekly maternity allowance is £139.58 (HK\$1,467), subject to a maximum payment of 33 weeks.

Key features of statutory maternity leave in selected places in Europe and North America

		United Kingdom	Sweden	Canada	United States
5.	Statutory duration of maternity leave	<ul style="list-style-type: none"> 364 days (52 weeks).⁵⁴ 	<ul style="list-style-type: none"> 480 days (68.6 weeks).⁵⁵ 	<ul style="list-style-type: none"> 119 days (17 weeks). 	<ul style="list-style-type: none"> Not applicable.
6.	Statutory rate of leave payment	<ul style="list-style-type: none"> For the first six weeks of leave, paid at 90% of average weekly earnings. For the next 33 weeks, paid at a standard rate or 90% of weekly earnings, whichever is lower.⁵⁶ The last 13 weeks are unpaid. 	<ul style="list-style-type: none"> For the first 390 days of leave, they are paid at 80% of the daily earnings, subject to a ceiling.⁵⁷ For the remaining 90 days, they are paid at a flat rate of SKr180 (HK\$155). 	<ul style="list-style-type: none"> Two weeks are unpaid. The rest of 15 weeks are paid at 55% of employee's earnings, subject to a maximum of C\$543 (HK\$3,182) per week. 	
7.	Cost incidence in maternity leave	<ul style="list-style-type: none"> Cost mostly funded by the National Insurance.⁵⁸ 	<ul style="list-style-type: none"> Cost funded by the Social Insurance Agency.⁵⁹ 	<ul style="list-style-type: none"> Cost funded by the Employment Insurance Scheme.⁶⁰ 	

⁵⁴ This comprises the first 26 weeks of ordinary maternity leave and the following 26 weeks of additional maternity leave if required. An employee is entitled to return to the workplace on the same terms and conditions after ordinary maternity leave of the first 26 weeks.

⁵⁵ Within the 480 days of parental leave, at least 90 days are reserved for each parent, while the remaining days are transferable between the working parents.

⁵⁶ In 2016-2017, the weekly standard rate is £139.58 (HK\$1,467).

⁵⁷ In 2016, the parental leave pay is subject to a maximum annual income of SKr445,000 (HK\$382,940).

⁵⁸ Employers can claim 92%-103% of reimbursement from the pool of employers' contribution to the National Insurance. In 2016-2017, employers' contribution to National Insurance is made at a rate of 13.8% of the monthly salary of employees. See footnote 21.

⁵⁹ In Sweden, employers are required to pay social insurance premium on behalf of employees, with the overall premium equivalent to 31.42% of gross salary in 2017.

⁶⁰ In Canada, employees are covered by employment insurance against unemployment, sickness and maternity leave. In 2017, employees pay the premium at a rate of 1.63% of the monthly salary, subject to an annual payment ceiling of C\$836 (HK\$4,899). Employers need to pay premiums that are 1.4 times those of employees.

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10 February 2017
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