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By Fax (2544 3271)

24 June 2014

Mr HUI Pak Kwan, Charles
Assistant Commissioner for Labour
(Labour Relations)
Labour Department
16/F, Harbour Building
38 Pier Road
Central, Hong Kong

Dear Mr HUI,

Re: Employment (Amendment) Bill 2014

Further to my letter dated 11 April 2014, I set out my observations on the drafting aspect of the Bill as follows -

Definition of "paternity leave pay" (Clause 3(1))

The new definition which reads "paternity leave pay means pay payable in respect of paternity leave" does not seem to provide any helpful information to the readers. Please consider amending the new definition by adding a reference to the relevant provision as in the existing signpost definitions of "annual leave pay", "holiday pay", "long service payment", "maternity leave" or "sickness allowance" in the Employment Ordinance (Cap. 57).

New Part IIIA (Proposed new sections 15D to 15L)

Please consider whether it is necessary to amend the existing definition of "child (兒童)" to include also the use of "嬰兒" as a Chinese equivalent of "child" in the new Part IIIA (Paternity Leave).

Proposed section 15D

Subsection (1)(c) which provides that an employee is entitled to paternity leave if "he has complied with all the requirements in the proposed new section 15E". It is noted that the requirements set out in section 15E(1) are alternative requirements at the option of the employee while the requirement set out in section 15E(2) is only to be complied at the request of the employer. Please consider whether it would be appropriate to omit the word "all" and add in references such as "as appropriate" in subsection (1)(c) to avoid doubts.

Under subsection (3)(b), the Chinese equivalent of "inclusive of" is missing in "在由確實產下嬰兒的日期起計的10星期屆滿時結束". Please amend.

Proposed section 15G

The observation on the use of "all the requirements" in the proposed section 15D(1)(c) also applies to the proposed section 15G(b).

Proposed section 15F

Subsection (1) which provides that "[p]aternity leave is in addition to rest days, holidays and annual leave to which an employee is entitled under this Ordinance". The Chinese text "僱員除根據本條例有權享有休息日、假日及年假外，還有權享有侍產假" which places the emphasis on the entitlement of rest days, etc. rather than that of paternity leave does not seem to correspond with its English text. Please consider amending the Chinese text with reference to the existing section 12(11) and 41AA(10) relating to maternity leave and annual leave respectively.

Proposed new section 15L

Subsection (2) provides that an employer who without reasonable excuse contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5. It is noted that the offence provision for maternity leave (i.e. the existing section 15A(1)) does not provide a defence of reasonable excuse. Please explain the reason for the different formulation of new offence.

I would be grateful if you could let me have your response in bilingual form on or before 27 June 2014.

Yours sincerely,



(Clara TAM)

Assistant Legal Adviser

cc. DoJ (Attn: Mr Michael LAM, SALD & Mr Alan CHONG, SGC (By Fax: 2869 1302))
Clerk to Bills Committee