



立法會秘書處 法律事務部
LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

來函檔號 YOUR REF : LD LRD/12-1/1-16 (C)
本函檔號 OUR REF : LS/B/7/19-20
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By Fax (2805 1127)

22 January 2020

Mr Raymond LIANG
Assistant Commissioner (Labour Relations)
Labour Department
16/F, Harbour Building
38 Pier Road
Central
Hong Kong

Dear Mr LIANG,

Employment (Amendment) Bill 2019

We are scrutinizing the captioned Bill with a view to advising Members on its legal and drafting aspects.

It is noted that the main purposes of the Bill include seeking to amend section 14 of the Employment Ordinance (Cap. 57). The effect is that the maternity leave pay for the proposed 11th to 14th weeks of maternity leave ("additional ML pay") would be subject to a cap as specified in the proposed new Schedule 1A to Cap. 57. The cap proposed in the new Schedule 1A is \$36,822 per employee. According to paragraphs 6 and 7 of the Legislative Council Brief (File Ref.: LD LRD/12-1/1-16 (C)) issued by the Labour and Welfare Bureau on 24 December 2019, the Government has committed that for the amount of the additional ML pay that is required to be paid under Cap. 57 and has been paid by the employers, the employers may apply to the Government for reimbursement ("reimbursement scheme"), which would be done by way of an administrative scheme.

It is further noted that under section 4 of the Public Finance Ordinance (Cap. 2), no expenditure shall be charged on the general revenue except as provided by or under Cap. 2 or any other enactment. We should be grateful if you could clarify the following matters:

- (a) whether there will be any other legislative amendment(s) to give effect to the implementation of the reimbursement scheme; and
- (b) whether the Administration intends to charge the expenditure relating to the reimbursement scheme on the general revenue, and if so, please clarify the legal basis for doing so.

We look forward to receiving your reply in both English and Chinese as soon as practicable, preferably by **7 February 2020**.

Yours sincerely,



(CHUI Ho-yin, Alvin)
Assistant Legal Adviser

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