



**LABOUR DEPARTMENT (Headquarters)**

**勞工處 (總部)**

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4 June 2020

Chairman  
Panel on Manpower  
Legislative Council  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong  
(Attn: Miss Betty MA  
Clerk to the Panel)

Dear Miss MA,

**Employment (Amendment) Bill 2019  
Proposed Amendments by Members**

Thank you for your email of 15 May 2020 on the proposed amendments to the Employment (Amendment) Bill 2019 (the Bill) provided by individual Members of the Panel on Manpower. The Government's preliminary response is stated below.

The proposed amendments may be grouped into the following four items:

- (a) To stipulate an annual review of the cap of the additional four weeks' maternity leave (ML) pay;
- (b) The Amendment Ordinance to come into operation immediately after the passage of the Bill by the Third Reading of the Legislative Council (LegCo);
- (c) To uplift the cap of the additional four weeks' ML pay; and
- (d) To change to amending the cap of the additional four weeks' ML pay by LegCo resolution published in the Gazette (positive vetting)

**(a) To stipulate an annual review of the cap of the additional four weeks' ML pay**

All along, the Government has been conducting timely reviews of labour legislation, taking account of the social changes and economic development of Hong Kong as well as practical needs such as the actual circumstances upon the implementation of the policy, etc. Likewise, after the passage of the Bill, the Government will conduct reviews of the cap of the additional four weeks' ML pay in a timely manner. As compared to the proposed amendment of rigidly stipulating a review timetable in the Bill, this arrangement would be more flexible and responsive to the actual social conditions of Hong Kong in reviewing statutory ML.

**(b) The Amendment Ordinance to come into operation immediately after the passage of the Bill by the Third Reading of LegCo**

The Bill proposes that ML be increased by four weeks. The employer will be required to pay the additional ML pay to the employee on the normal pay day – same as what they are currently required to do in respect of the 10 weeks' ML pay. After the passage of the Bill, the Government will launch extensive publicity and promotional activities in the run-up to the implementation of the Amendment Ordinance to facilitate public awareness and understanding of the new provisions and employers to make arrangements necessary for compliance with the new requirements. This will be conducive to the smooth implementation of the new legislation as with previous amendment exercises of the Employment Ordinance (EO). Implementing the Amendment Ordinance instantly after the passage of the Bill by LegCo would bring about an immediate impact on the operation and manpower arrangements of employers, and the Government may have to consult the Labour Advisory Board again on the proposed extension of ML. Furthermore, the Government has committed to wholly funding the additional four weeks' statutory ML pay (subject to a cap) by reimbursing employers administratively. After paying to employees the additional ML pay as required under EO, employers may apply to the Government for reimbursement. The Labour Department is working on the development of a new Reimbursement of Maternity Leave Pay Scheme (RMLPS). It consulted this Panel on the proposal of developing the necessary Disbursement Information System (DIS) on 21 January 2020, and Members had no objection in principle to the Government's submission of the proposal to the Finance Committee of LegCo for funding approval. Subject to the passage of the Bill and approval of funding for DIS within the current LegCo session, the Government aims to implement RMLPS by end-2021. Therefore, the Bill proposes that the Amendment Ordinance should commence on a day to be appointed by the Secretary for Labour and Welfare by notice published in the Gazette.



**(c) To uplift the cap of the additional four weeks' ML pay**

The Government has committed to funding the additional four weeks' ML pay by public coffers. For the proper use of public money, it is a common practice of the Government to set a ceiling to guard against extreme and probably unusual cases. As the terms of remuneration in some employment contracts may far exceed the general level, it is not appropriate for the Government to fund such exceptional cases. The current cap as proposed in the Bill has already covered nearly 95% of female employees. Nevertheless, the Government will review the cap in a timely manner. While the cap is stipulated in the Bill, employers may still offer employees a higher amount under their contracts of employment.

**(d) To amend the cap of the additional four weeks' ML pay by LegCo resolution published in the Gazette (positive vetting)**

The Bill proposes that the Commissioner for Labour may, by notice published in the Gazette (i.e. "negative vetting"), amend the cap of the additional four weeks' ML pay. According to the negative vetting procedures, the subsidiary legislation is first published in the Gazette and then laid on the table of LegCo at its meeting. LegCo may amend a piece of subsidiary legislation by a resolution passed at a LegCo meeting held not later than 28 days after the meeting at which it was so laid. The vetting period may be extended to the first LegCo meeting held after the 21st day from the original expiry day. As the time required for legislative enactment under the "negative vetting" procedure is relatively shorter, amending the cap of the additional four weeks' ML pay through this procedure would enable the expeditious implementation of a new cap to benefit pregnant employees as early as possible.

Yours sincerely,



(LIANG Lok-man, Raymond)  
for Commissioner for Labour

c.c. Secretary for Labour and Welfare (Attn: Mr Dominic CHOW)