

**立法會**  
***Legislative Council***

LC Paper No. LS50/20-21

**Paper for the House Committee Meeting  
on 19 March 2021**

**Legal Service Division Report on  
Employment (Amendment) Bill 2021**

**I. SUMMARY**

- 1. The Bill**

The Bill seeks to amend the Employment Ordinance (Cap. 57) to add five additional statutory holidays so as to increase the number of statutory holidays from 12 days to 17 days progressively from 2022 to 2030.
- 2. Public Consultation**

According to the Administration, the Labour Advisory Board was consulted twice on the proposal at its meetings. While no consensus could be reached within the Labour Advisory Board on the pace, there is no disagreement on the goal of increasing progressively the number of statutory holidays to align with that of general holidays.
- 3. Consultation with LegCo Panel**

The Panel on Manpower was consulted on the legislative proposal on 19 January 2021. Members raised no objection to the introduction of the legislative proposal but expressed diverse views on the implementation schedule.
- 4. Conclusion**

No difficulties have been identified in the legal and drafting aspects of the Bill. In light of the views expressed by members of the Panel on Manpower on the proposed implementation of the Bill, Members may wish to consider whether a Bills Committee should be formed to study the Bill in detail.

## **II. REPORT**

The date of First Reading of the Bill is 17 March 2021. Members may refer to the Legislative Council ("LegCo") Brief (File Ref.: LD LRD/12-1/1-12/5(C)) issued by the Labour and Welfare Bureau on 3 March 2021 for further details.

### **Object of the Bill**

2. The Bill seeks to amend the Employment Ordinance (Cap. 57) to add five days, progressively from 2022 to 2030, to the list of statutory holidays set out in section 39(1) of Cap. 57.

### **Provisions of the Bill**

#### Amendments to increase progressively the number of statutory holidays

3. Under the existing section 39(1) of Cap. 57, an employee, irrespective of his length of service and hours of works, is entitled to 12 days of statutory holidays<sup>1</sup> a year. Under section 40 of Cap. 57, an employee is further entitled to statutory holiday pay if he has been employed under a continuous contract<sup>2</sup> for not less than three months immediately preceding a statutory holiday. On the other hand, section 3 of and the Schedule to the General Holidays Ordinance (Cap. 149) specifies 17 days, in addition to Sundays, as general holidays which shall be kept as holidays by all banks, educational establishments, public offices and Government departments.

4. The Bill seeks to amend section 39(1) of Cap. 57 to add the five general holidays that are currently not statutory holidays to the list of statutory holidays set out in that section ("additional statutory holidays"). The Bill also seeks to specify different effective dates for each of the five additional statutory

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<sup>1</sup> The 12 days of statutory holidays are: (1) the first day of January; (2) Lunar New Year's Day; (3) the second day of Lunar New Year; (4) the third day of Lunar New Year; (5) Ching Ming Festival; (6) Labour Day; (7) Tuen Ng Festival; (8) Hong Kong Special Administrative Region Establishment Day; (9) the day following the Chinese Mid-Autumn Festival; (10) National Day; (11) Chung Yeung Festival; and (12) Chinese Winter Solstice Festival or Christmas Day (at the option of the employer).

<sup>2</sup> Under section 3 of and the First Schedule to Cap. 57, an employee who has been employed continuously under a contract of employment for four weeks or more and has been working for 18 hours or more each week is regarded as being employed under a continuous contract.

holidays to the effect that the number of statutory holidays would be increased by five increments with one additional day every two years until it reaches 17 days in 2030.

5. The proposed five additional statutory holidays and the respective proposed effective dates are as follow:

<b>Additional statutory holidays</b>	<b>Proposed effective date</b>
(a) the Birthday of the Buddha, being the eighth day of the fourth lunar month	1 January 2022
(b) the first weekday after Christmas Day	1 January 2024
(c) Easter Monday	1 January 2026
(d) Good Friday	1 January 2028
(e) the day following Good Friday	1 January 2030

6. According to paragraph 2 of the LegCo Brief, the proposal to increase progressively the numbers of statutory holidays from existing 12 days to 17 days is introduced to take forward the initiative put forward by the Chief Executive in early 2020 to further improve people's livelihood.

7. The Bill proposes no amendments to other provisions on statutory holidays under Cap. 57. According to paragraph 9 of the LegCo Brief, the Administration suggests maintaining the other provisions on statutory holidays under Cap. 57, including the arrangement for granting/taking of statutory holidays, the eligibility for statutory holiday pay, rate of statutory holiday pay and restrictions on pay in lieu of holiday.

### Commencement

8. If passed, the Bill (except the provisions in relation to the first weekday after Christmas Day, Easter Monday, Good Friday and the day following Good Friday which would come into operation on the respective dates specified in paragraph 5(b) to (e) above) would come into operation on 1 January 2022.

## **Public Consultation**

9. According to paragraphs 15 and 16 of the LegCo Brief, the Labour Advisory Board was consulted on 14 October 2020 and on 5 November 2020 on the proposal at its meetings. While no consensus could be reached within the Labour Advisory Board on the pace, there is no disagreement on the goal of increasing progressively the number of statutory holidays to align with that of general holidays, and on the need to introduce an enabling bill into LegCo for scrutiny with a view to designating the first additional statutory holiday in 2022.

## **Consultation with LegCo Panel**

10. As advised by the Clerk to the Panel on Manpower, the Panel was briefed on the legislative proposal on 19 January 2021. Members raised no objection to the proposal of increasing progressively the number of statutory holidays under Cap. 57 from existing 12 days to 17 days so that it would be on a par with the number of general holidays. However, members expressed diverse views on the proposed timeframe of aligning the number of statutory holidays with general holidays.

## **Conclusion**

11. No difficulties have been identified in the legal and drafting aspects of the Bill. In light of the views expressed by members of the Panel on Manpower on the proposed implementation of the Bill, Members may wish to consider whether a Bills Committee should be formed to study the Bill in detail.

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