

立法會 *Legislative Council*

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Panel on Manpower

Background brief prepared by the Legislative Council Secretariat for the meeting on 18 May 2021

The Reimbursement of Maternity Leave Pay Scheme

Purpose

This paper summarizes the major views and concerns expressed by members of the Panel on Manpower ("the Panel") and the Subcommittee on Employment (Amendment) Ordinance 2020 (Commencement) Notice relating to the Reimbursement of Maternity Leave Pay Scheme ("the RMLP Scheme").

Background

2. The Employment (Amendment) Ordinance 2020 ("the Amendment Ordinance") which has increased the statutory maternity leave ("ML") by four weeks took effect on 11 December 2020. Eligible female employees¹ whose confinement occurs on or after the commencement date of the Amendment Ordinance are entitled to 14 weeks' statutory ML. Employers should calculate the maternity leave pay ("MLP") in accordance with the Employment Ordinance (Cap. 57) ("EO") (i.e. four-fifths of the employee's average daily wages) and the additional four weeks of MLP is subject to a cap of \$80,000 per employee. Employers may apply to the Government for full reimbursement of

¹ Under the Employment Ordinance ("EO"), a female employee employed under a continuous contract immediately before her ML commences is entitled to a continuous period of 14 weeks' ML. If the employee has been employed under a continuous contract for not less than 40 weeks immediately before the commencement of her scheduled ML and has given notice of pregnancy and her intention to take ML to the employer is further entitled to MLP at the rate of four-fifths of the employee's average daily wage. According to EO, an employee who has been employed continuously by the same employer for four weeks or more, with at least 18 hours worked in each week, is regarded as being employed under a continuous contract.

the additional MLP that is required to be paid and has been paid under the Amendment Ordinance.

Past discussions by Members

Implementation of the Reimbursement Maternity Leave Scheme

3. During the deliberations on the legislative proposal to increase the statutory ML under EO by four weeks, members had repeatedly called for early implementation of the extension of ML. Members were advised that the implementation of the additional four weeks' ML would be subject to the launch of the RMLP Scheme. In response to the call for early implementation of the Amendment Ordinance, the Administration subsequently decided to outsource the administration of the RMLP Scheme to a private sector processing agent, instead of direct administration by the Labour Department ("LD") as originally planned, so as to speed up the implementation process. Members were further advised that LD had set up the Preparatory Office for Reimbursement of Maternity Leave Pay ("the Preparatory Office") in the second quarter of 2020 to coordinate and commence the preparatory work for the RMLP Scheme. The Preparatory Office completed the tendering procedures and appointed the processing agent at end 2020.

4. Some members expressed concern about the delineation of responsibilities between the Preparatory Office under LD and the outsourced processing agent in implementing the RMLP Scheme as well as the administrative costs of the RMLP Scheme.

5. The Administration advised that the main function of the outsourced processing agent would include developing, operating and maintaining a disbursement information system, vetting applications from employers and calculating the amount of reimbursement, and handling enquiries by applicants, etc. As for the Preparatory Office, it would, among other functions, oversee the policy and implementation of the RMLP Scheme, monitor and check the performance of the processing agent, handle complaints lodged by applicants and members of the public against the processing agent, effect reimbursement payment, formulate publicity campaigns and conduct regular tender exercises, etc. The Preparatory Office was working in close collaboration with the processing agent and pressing ahead with the preparatory work for the RMLP Scheme with a view to implementing the RMLP Scheme in the first half of 2021.

6. The Administration further advised that the Finance Committee approved on 3 July 2020 a supplementary provision of \$165.7 million in 2020-2021 and an annual recurrent funding of \$524 million from 2021-2022 onwards for meeting the funding requirements for reimbursement of MLP, and payment of service fee to processing agent and other administrative costs for implementing the RMLP Scheme. According to the Administration, with reference to the available data in 2018 and assuming that all eligible employers would apply for the reimbursement of additional four weeks' MLP paid under the RMLP Scheme, the annual estimated cost of reimbursement was around \$470 million. The service fee for the processing agent was set at 10% of the reimbursement amount each year, i.e. \$47 million annually.

Reimbursement of the additional MLP

7. Members were concerned about the exact timing for employers to be reimbursable with the additional MLP from the Government. The Administration advised that under EO, employers would be required to pay the additional MLP to the employee on the normal pay day, i.e. same as what they were currently required to do in respect of the first 10 weeks' MLP. Employers might afterwards apply to the Government for reimbursement of the additional MLP paid under EO. While the specific details on the application procedures under the RMLP Scheme would be made available in due course, the initial thinking was that an employer seeking reimbursement of the additional MLP paid to his/her employee would be required to complete an application form and provide the necessary information, including documentary proof of the pregnancy of the employee concerned and proof of payment for the additional MLP. LD would launch relevant publicity to enhance public understanding of the reimbursement arrangements in due course.

8. Some members were concerned as to whether employers could still seek full reimbursement of the additional MLP from the Government in the event that their business was closed down after they had paid MLP to their employees. The Administration advised that generally speaking and subject to fulfilment of the relevant requirements, employers would be eligible for reimbursement of the additional MLP that had been paid to their employees under the Amendment Ordinance.

Recent development

9. LD launched the RMLP Scheme on 1 April 2021. According to the Administration, it is expected that the extension of statutory ML, in conjunction with the implementation of the RMLP Scheme, will benefit 27 000 employees and their employers every year. The Administration will brief the Panel on the details of the implementation of RMLP Scheme at its meeting on 18 May 2021.

Relevant papers

10. A list of the relevant papers on the Legislative Council website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
12 May 2021

**Relevant papers on the reimbursement of
maternity leave pay scheme**

Committee	Date of meeting	Paper
Panel on Manpower	12 March 2020 (Item II)	Agenda Minutes
Panel on Manpower	28 April 2020 (Item I)	Agenda Minutes
Panel on Manpower	12 May 2020 (Item I)	Agenda Minutes
Panel on Manpower	18 May 2020 (Item I)	Agenda Minutes
Establishment Subcommittee	28 May 2020 EC(2019-20)2	Agenda Minutes
Finance Committee	3 July 2020 Item 10 (FCR(2020-21)14A)	Agenda Voting result
Panel on Manpower		Report of the Panel on Manpower on issues relating to the Employment (Amendment) Bill 2019 for submission to the Legislative Council (LC Paper No. CB(2)1219/19-20)
Subcommittee on Employment (Amendment) Ordinance 2020 (Commencement) Notice		Report (LC Paper No. CB(2)336/20-21)
Panel on Manpower	16 March 2021 (Item VI)	Agenda

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