

Hong Kong improves maternity leave benefits

DENTONS

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The Hong Kong government published the Employment (Amendment) Bill 2019 in the Gazette on December 27, 2019, which implements changes in relation to statutory maternity benefits. The bill was introduced to the Legislative Council on January 8, 2020 for its first reading and is currently being considered by the Legislative Council.

Under the current regime, a female employee employed under a continuous contract is entitled to a continuous period of 10 weeks' maternity leave, and is entitled to maternity leave pay at the rate of four-fifths (80%) of her average daily wages. Further, if a female employee suffers a miscarriage before 28 weeks of pregnancy, she is entitled to sick leave in respect of any day on which she is absent from work by reason of the miscarriage, but not maternity leave.

The bill proposes to make several improvements on maternity benefits, including:

1. extending the period of statutory maternity leave from 10 weeks to 14 weeks
2. providing that additional maternity leave pay will need to be made for the maternity leave extension at the current statutory rate for maternity leave pay, subject to a cap of HKD 36,822 per employee for those four weeks
3. reducing the period of pregnancy for the definition of "miscarriage" from 28 weeks to 24 weeks, so that a female employee whose child is incapable of survival after being born at or after 24 weeks of pregnancy may be entitled to maternity leave if other conditions are met
4. allowing a certificate of attendance issued by a medical professional, as an alternative to a medical certificate, to be presented as a proof for sickness allowance for a female employee's attendance at a medical examination for her pregnancy

According to the Legislative Council Brief for the bill, the government is committed to providing reimbursement to employers for the additional maternity leave pay required for the four weeks' extension of maternity leave.

These long-awaited changes, which were first announced in the government's policy address in 2018, are a welcome change for working mothers in Hong Kong.

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