Employment (Amendment) Bill 2022 gazetted today

The Government published the Employment (Amendment) Bill 2022 (Bill) in the Gazette today (February 25).

The legislative amendment seeks to make it explicit that the absence from work of employees for compliance with a requirement with restriction on movement imposed under the Prevention and Control of Disease Ordinance (Cap. 599) will be deemed as sickness day(s) under the Employment Ordinance (EO)(Cap. 57) and to provide for sickness allowance payable to eligible employees under the above circumstances, subject to the fulfilment of the relevant criteria under the EO. The legislative amendment also makes it clear that dismissal of an employee by reason of the employee being subject to such restriction on movement is considered as unreasonable dismissal.

The amendment also provides that dismissal due to an employee's non-compliance (except with sufficient medical reasons) of the vaccination requirement of the "vaccine pass" scheme under Cap. 599L or failure to produce proof of having vaccinated of any COVID-19 vaccine recognised by the Government after request being made by the employer by the expiry of a specified period constitutes a valid reason for dismissal under the EO. For situations where Cap. 599L does not apply, this amendment provides exemptions to certain employees, including pregnant employees and lactating employees. This amendment will have a sunset clause, to be repealed when the pandemic is under control and vaccination is no longer a matter of public health concern.

"With the severe impact of the COVID-19 pandemic on our society, it is necessary to strike a reasonable balance between implementing anti-epidemic measures to protect public health and preserving employees' statutory rights and benefits," a spokesman for the Government said.

"We plan to introduce the Bill into the Legislative Council for scrutiny as soon as possible. Upon enactment of the amendment bill, it will come into operation once published in the Gazette," the spokesman added.