

Employment (Amendment) Ordinance 2020 to take effect December 11 to increase statutory maternity leave by four weeks

The Labour Department (LD) announced today (December 4) that the Employment (Amendment) Ordinance 2020 (Amendment Ordinance) will take effect on December 11, 2020.

The Amendment Ordinance seeks to increase the maternity leave (ML) under the Employment Ordinance (EO) (Cap. 57) by four weeks, which should be taken by the employee continuously after the 10 weeks' ML, if so entitled. The current statutory rate of maternity leave pay (MLP) (i.e. four-fifths of the employee's average daily wages) will be maintained for calculating the additional MLP payable in respect of the extension of ML, subject to a cap of \$80,000 per employee.

The Amendment Ordinance also covers two technical amendments which include updating the definition of "miscarriage" under the EO from "before 28 weeks of pregnancy" to "before 24 weeks of pregnancy" to entitle a female employee whose child is incapable of survival after being born at or after 24 weeks of pregnancy to ML if other conditions are met; and accepting a certificate of attendance issued by a medical professional as documentary proof for entitling an eligible employee to sickness allowance for any day on which the employee has attended a medical examination in relation to her pregnancy.

"Upon the commencement of the Amendment Ordinance on December 11, those eligible female employees whose confinement occurs on or after this day are entitled to the additional four weeks' statutory ML. During the transitional period, if an employee's expected date of confinement is close to this day, the employee and the employer should maintain communication about the employee's actual date of confinement so as to confirm if the employee is entitled to the additional four weeks' statutory ML," a spokesman for the LD said.

"With the updated definition of 'miscarriage', an eligible female employee whose child is incapable of survival after being born at or after 24 weeks of pregnancy and on or after December 11 is entitled to ML under the EO. Regarding the acceptance of a certificate of attendance as documentary proof entitling an eligible employee to sickness allowance for a day on which she attends a medical examination in relation to her pregnancy, it is applicable to such medical examinations held on or after December 11."

The spokesman added that employers may apply to the Government for full reimbursement of the additional four weeks' MLP that is required to be paid

and has been paid under the Amendment Ordinance. For details, please refer to information on the Reimbursement of Maternity Leave Pay Scheme (www.labour.gov.hk/eng/public/RMLPS_FS.htm) published by the LD.

For further information, please visit the LD's website at www.labour.gov.hk or call 2717 1771 (the hotline is provided by 1823).