

LCQ19: Sickness allowance

Following is a question by the Hon Luk Chung-hung and a written reply by the Secretary for Labour and Welfare, Dr Law Chi-kwong, in the Legislative Council today (May 29):

Question:

Under the Employment Ordinance (Cap. 57), an employee employed under a continuous contract who has taken a sick leave for not less than four consecutive days is entitled to a sickness allowance, provided that other statutory requirements are met. Some employees have relayed to me that as no sickness allowance will be payable to them if they take a sick leave for less than four consecutive days, they strain themselves to go to work even when they are sick. In addition, as the early symptoms of certain infectious diseases are mild, the risk of such infectious diseases spreading will increase if employees who have contracted those diseases still go to work as usual. In this connection, will the Government inform this Council:

(1) whether it encouraged private enterprises and institutions in the past three years to (i) handle their employees' requests for taking sick leave in a sympathetic manner during the surges of measles and influenza, and (ii) grant a sickness allowance to their employees who have taken a sick leave for less than four consecutive days; if so, of the details; if not, whether it will do so in the future;

(2) whether the Government, being the largest employer in Hong Kong, will (i) take the lead in granting a sickness allowance to all of its contract staff members who have taken a sick leave for less than four consecutive days and have met other statutory requirements, and (ii) require contractors of outsourced service contracts to follow suit; if so, of the details; if not, the reasons for that; and

(3) whether it will, in the long run, introduce legislative amendments to (i) stipulate that an employee who takes a sick leave for less than four consecutive days is also entitled to a sickness allowance, and (ii) raise the daily rate of the sickness allowance from 80 per cent of the daily average wage earned by the employee during the 12-month period before the sick leave to 100 per cent of that amount; if so, of the details; if not, the reasons for that?

Reply:

President,

Having consulted the Civil Service Bureau (CSB) and the Financial Services and the Treasury Bureau (FSTB), I provide a consolidated reply to the Member's question as follows:

(1) The Labour Department (LD) has all along been promoting to employers and

employees their obligations, rights and benefits under the Employment Ordinance (E0) (Cap. 57) through a wide range of publicity activities. LD also actively promulgates good human resource management practices and encourages employers to provide to their employees employment benefits which are more favourable than those required under the law in order to help establish harmonious labour relations. Relevant publicity activities include distributing leaflets and promotional materials, displaying posters, publishing feature articles through newspapers and online media, placing advertisements at periodic journals of major employers' associations and trade union federations, etc. As far as LD is aware, many enterprises and organisations provide sickness allowances to their employees who have taken sick leave of less than four consecutive days, having regard to their own human resource management practices and the situation of individual staff.

(2) For part (i) in the question, as advised by CSB, under the Non-Civil Service Contract (NCSC) Staff Scheme, bureaux/departments (B/Ds) may determine the entitlements of NCSC staff to sickness days and sickness allowance, provided that they are no less favourable than those provided in E0, or else the arrangement should be made according to E0. In the past three years, about 90 per cent of full-time (Note) NCSC staff enjoyed more favourable sick leave entitlement than those provided in E0. They were allowed to take paid sick leave for less than four days on top of the sick leave entitlement provided in E0. Given the nature of the NCSC Staff Scheme, it is the Government's policy to allow B/Ds due flexibility in the employment of NCSC staff. B/Ds may, having regard to their operational and service needs, as well as the specific needs of individual job's nature, determine the employment and related matters of staff, including whether paid sick leave for less than four consecutive days is provided. B/Ds may consider each case based on its own merits. Across-the-board arrangement is not appropriate. Notwithstanding this, CSB has reminded B/Ds from time to time to enhance the terms and conditions of NCSC staff on a discretionary basis if situation warrants, and to conduct periodic reviews and pay adjustment to ensure that the employment package remains competitive with the prevailing employment market situation. As regards part (ii) in the question, according to FSTB, the employees of Government Service Contractors do not have employment relationship with the Government, and they are entitled to the protection under E0 (including sickness allowance) like other employees.

(3) Under E0, an employee is entitled to sickness allowance equivalent to four-fifths of his/her average daily wages if he/she can produce appropriate medical certificate for sick leave of not less than four consecutive days and fulfils other statutory requirements (e.g. sufficient number of paid sickness days being accumulated). E0 only sets out the minimum standards of rights and benefits for employees under the law. The Government always encourages individual employers, having regard to their own business operations and affordability, to offer employment benefits (including sickness allowance) above the statutory standards to their employees.

Since the introduction of sickness allowance under E0, the relevant provisions have been reviewed from time to time. Apart from gradually raising the rate of sickness allowance from one half to the current level of four-

fifths of an employee's average daily wages, the maximum number of paid sickness days to be accumulated has been progressively increased from the initial 24 days to the present 120 days. In addition, the medical professionals recognised under EO for certifying an employee's incapability to work in consequence of sickness or injury have been extended from registered medical practitioners to cover also registered dentists and registered Chinese medicine practitioners, thus affording employees more options on treatment.

An employee's absence from work owing to illness is not necessarily work-related. In apportioning the financial loss arising from an employee's illness, there is a need to take into account the interests of both employers and employees. Given that sickness allowance is payable for sick leave of four consecutive days or more, the present provisions have served to provide a certain level of protection to eligible employees if they need to take a longer period of sick leave. The Government has no plan to make amendments to the concerned provisions at this stage.

Note: "Full-time" employment means employment under a "continuous contract" as defined by EO. According to the Ordinance, an employee is regarded as being employed under a continuous contract if he/ she works continuously for the same employer for four weeks or more, with at least 18 hours in each week.