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From "418" to "468" – What it means to Hong Kong employees and employers



After years of debate, Hong Kong finally is to witness a change to the "continuous contract" requirement under the Employment Ordinance.

The presence of "continuous contract" of employment for the certain specific durations entitles an employee to more extensive statutory benefits, such as rest days, paid statutory holidays, paid annual leave, sickness allowance, maternity or paternity pay, severance payment, long service payment and so on, provided that the employee also meets the other relevant eligibility criteria for the respective benefits.

Currently, 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 (meaning a week ending with Saturday), is regarded as being employed under a continuous contract.

In determining whether an employee has worked or is regarded to have worked for 18 hours or more in a particular week, the provisions of the First Schedule of the Employment Ordinance shall apply. Some hours of absence may still count as an hour in which he or she has worked, depending on the specific circumstances of each absence.

Various suggestions had been put forward by different stakeholder groups at different times, and the Labour Advisory Board (LAB) has recently reached a consensus that the existing requirement, which is often known as the "418" requirement, will be relaxed. Upon the implementation of the amended requirement, the

aggregate working hours of four weeks will be used as a counting unit, and the four-week working hour threshold will be set at 68 hours.

Whilst the full legislative amendments are yet to be revealed, the Government anticipated that about 11,000 casual or part-time workers who originally did not benefit from the additional statutory entitlements and protection would fall under the revised definition as employees employed under a continuous contract.

From the employers' point of view, the relaxation of the "418" rule to "468" alongside with the other latest reforms of the Hong Kong employment law (including the abolition of MPF offsetting arrangement, the increase of statutory holidays etc.) may prompt them to review their staff composition and work arrangements in light of the corresponding financial implications and other legal obligations to come with the new requirement.

Practically, in order to ensure that they do not fall afoul of their statutory obligations, employers are also reminded of their duty to keep and maintain wage and employment records of each of their employees at all times, which must contain the necessary details as stipulated by the Employment Ordinance.

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