

# **Hong Kong**

## **1. Government requirements**

### **Registration requirements**

#### **Employees' Compensation Insurance (ECI)**

It is compulsory for the employer take up ECI to cover the liabilities under the Employees' Compensation Ordinance and also under the common law for the work injuries and occupational diseases that may be suffered by the employees under contract of service

#### **Employer's tax file number**

The new employer will be issued with an "employer tax file no." from the Inland Revenue Department (IRD). You may request this by writing to the IRD with your company's certificate of incorporation, if not automatically issued by the IRD.

#### **New employees**

The employer will be required to file a Commencement Notification form IR56E to the IRD within three months of the employee's start of employment.

#### **Ongoing compliance requirements**

#### **ECI**

The employer should report to the Commissioner for Labour for any accident or occupational disease in specified period based on the level of injury and occupational disease.

#### **Employer's filing obligation - annual reporting**

The employer is required to report the remuneration paid to the employees by submitting the annual Employer's Return (BIR56A and IR56B) within one month after the tax year end to the IRD for their employees.

#### **Terminated employees**

The employer is required to file a Notification of Cessation of Employment form IR56F (on termination of service or death), no later than one month before cessation.

If the employee is leaving Hong Kong for good or for a substantial period of time, the employer is required to file a Departure notification form IR56G, no later than one month before departure and withhold money for tax clearance.

## **2. Pension requirements**

### **Registration requirements**

Employer should enroll all employees in a Mandatory Provident Fund Scheme (MPF) no later than 60 days upon their first day of employment according to the Mandatory Provident Fund Scheme Ordinance (Cap 485). For new joiners, employee is eligible to a 30-day contribution holiday and they should make their contribution together with the employer in the month when 60 days of employment is reached.

## **Ongoing compliance requirements**

Employer and employee should make monthly MPF payments calculated at 5% of the employees' relevant income subject to minimum and maximum capping on or before the contribution in each month (i.e., 10th day of the following month). With effect from 1 November 2013, the minimum relevant income level is HKD7,100 (applicable to the employee only) and the maximum relevant income level is HKD30,000.

## **3. Employment obligations**

### **Employment Ordinance**

According to the Employment Ordinance, the employer and the employee should have signed an employment agreement listing out the conditions of the employment which includes but not limited to wages (rate of wages, frequency, etc.), wage period, notice period for termination of employment and the details of end of year payment if eligible. The employer should always keep all wage and employment history of each employee in a period preceding 12 months during their employment. The related information should also be kept for 12 months after the employee's last working day.

### **Minimum wage**

Under the Employment Ordinance, employees' average wages in a wage period must not be less than the statutory minimum wages. Statutory Minimum Wage (SMW) has come into force since 1 May 2011. With effect from 1 May 2019, the SMW rate is raised to HKD37.5 per hour. Concurrently, the monetary cap on the requirement of employers keeping records of the total number of hours worked by employees is also revised to HKD15,300 per month.

### **Leave entitlement**

In addition to the minimum wages, the employers must provide at least the leave entitlement set out under the Employment Ordinance. All employees employed under continuous contract shall enjoy not less than one rest day for every seven working days and statutory holiday. The employees who have been employed for more than three months shall also enjoy the statutory holiday paid. The minimum requirements for annual leave are 7 days paid annual leave per year and the annual leave shall increase 1 day per additional service year until the annual leave capping of 14 days is reached on the 9th service year. Employees employed under continuous contract also have the right to accumulate 2 paid sickness days per month during the first 12 months of employment, and 4 days per month thereafter to reach a maximum of 120 days of paid sick leave.

Pregnant employees, who is employed under continuous contract, shall enjoy 14 weeks' maternity leave and the maternity leave shall also be paid if she has been employed under continuous contract for not less than 40 weeks before the commencement of maternity leave. Male employees shall enjoy minimum of 5 days paid paternity leave if they have been employed under continuous contract for not less than 40 weeks before the first day of paternity leave.

## **4. Payroll requirements**

### **Payroll payments**

The employer should strictly follow the timing of payment set out in the Employment Ordinance. The employer is required to make salary payment to the employee on the last day of each pay period or not later than seven days after the end of wage period. Wage period can be defined by the employer and the employee but usually set as one month. For termination case, the employer

should settle all final payment (except severance payment) within seven days after the employees' termination date.

### **Statutory entitlement under Employment (Amendment) Ordinance 2007**

As set out in the Employment (Amendment) Ordinance 2007, holiday pay, annual leave pays, sickness allowance, maternity leave pays, paternity leave pays, end of year payment and wages in lieu of notice should be calculated on the basis of the 12-month average wages preceding the day or the first day of the leave period of an employee.

## **5. Banking requirements related to payroll**

There is no specific requirement on the mode of payment. Some MPF trustees may not accept overseas bank transfer and will require local Hong Kong bank transfer.