

## LEGAL UPDATE INSIGHT

Are you ready for Macau's proposed labour law changes?

### **Are You Ready?**

Labour costs are often the highest operating expense on a P&L, typically over 50% of its operational budget. For businesses to budget effectively, a deep understanding of the minimum requirements under local employment law is not just compliance - it's foundational strategy. In Macau, the Labour Relations Law (Law no. 7/2008) is on the amendment table once more, and the proposed changes, while few, are significant. The first proposed change is to increase minimum maternity leave from 70 to 90 days, with 30 days flexible around confinement and 60 days mandatory immediately after. The second is to overhaul the minimum annual leave from a flat 6 days to a progressive regime, adding one day for every two years of service, up to a cap of 14 days.

The city is rightly abuzz with debate on this topic, a debate that has prompted me to listen to voices from stakeholders and look at practices worldwide. In strategic management, strategists aim to maximize performance with minimal resources and thereby create or strengthen a competitive advantage. Conversely, improving employee rest time enhances work-life balance, fosters a greater sense of belonging and employment stability. These are often presented as opposing interests. But are they truly at odds?

### ***The Long Road to Equal Rights for an Equal Gender***

Low birth rates have become a pressing topic in Macau, with the UN reporting fertility level of the city at just 0.68 births per woman — the lowest in a group of 48 countries that are projected to see the size of their population peak before 2054 or in 30 years' time. While many factors are at play, unattractive protections for women in the private sector are undoubtedly a major contributor.

For decades, a 90-day maternity leave has been the minimum standard for female government employees, while their counterparts in the private sector have been treated as second-class citizens with much less. It is an unfair disparity long overdue for correction. Looking back, the journey has been painfully slow. Prior to 1989, private sector employees lived with just half the maternity leave of female civil servants which was 60 days, and even then, it was capped by the number of baby deliveries. From 1989, Decree Law no. 24/89/M raised it to 35 days but still limited paid maternity leave to three deliveries. It wasn't until the current law in 2008 that this limitation was finally abolished, with maternity leave raised to 56 days. This slight improvement was further enhanced to the current 70 days in 2020.

Child delivery is a natural experience unique to women, and the need for post-delivery rest is medically indisputable. This applies to all women, regardless of whether their employer is the government or a small business. The differentiated minimum protection is in no way justifiable. In purely mathematical terms, it took over a decade to begin narrowing this gap. Now, another 37 years later, we are finally having a public conversation about bringing this unfair disparity to an end and granting equal rights to an equal gender.

### ***The Visible Hand: A Helping Hand or a Pointing Finger?***

As an employment counsel, I often feel a flicker of embarrassment when advising European-headquartered clients on our statutory minimum of six days' annual leave. Their astonished reaction I received is often smoothed out by the tag of "hardworking people" - and therefore something to be proud of. To make myself feel better, I would like to think of the two neighboring cities, Hong Kong and Singapore, which also start at a minimum of seven days, and yet never see their international reputation tarnished because of a low minimum annual leave entitlement.

# MdME

Even Mainland China adopts a modest five-day minimum in its 2008 framework, which progresses to 10 and 15 days after 10 and 20 years of service, respectively. Before that law, there was no legal minimum annual leave entitlement but recommendation in the law to provide adequate annual leave to employees. We know that China no longer operates a pure social market economy, but a hybrid system combining state guided socialism and market driven capitalism. The government, through yearly designation of public holidays in variable duration, controls employees' annual leave. The designation also includes compulsory make-up days on weekends before or after such periods of public holidays. The Chinese labor law history reveals that the visible hand in annual leave originally was to create domestic spending surges to boost growth that was much needed after the 2008 financial crises, rather than merely correcting poor labor rights provided by private sector employers.

This leads to a fundamental question: what active role should public policy play in mandating employee rights? The United States, for example, takes a total laissez-faire approach, regulating no minimum annual leave. In a purely free market, companies offering better benefits gain a competitive edge for talent, and employees can leverage their skills and outstanding profile for an optimized package. It seems rational. But is it that simple?

Perhaps not. Employment is a socially sensitive matter that demands a holistic view. Firstly, options are not for young people who do not have bargaining power. Secondly, if all market options are equally poor, there is no real choice. As a parent of three and a veteran in my field, I firmly believe in the value of early-career hardship; it builds resilience. However, poor entitlements, like insufficient time off, also bear part of the blame for social ills like low birth rates. Romance rarely blossoms in a highly stressful and competitive workplace. Some people even reject the idea of having their spouse working in the same place. If Gen Z workers don't get meaningful breaks to socialize, find partners, or see their families, both the workplace and society shall be at large risk of becoming toxic. Sometimes, the visible hand of state intervention is not just helpful, but necessary.

## *Less is More: Lessons from the ILO*

Macau adheres to several International Labour Organization (ILO) conventions, but not C132 (Holidays with Pay Convention, 1970), which entitles workers to a minimum of 15 working days of paid annual leave. C132 is an improvement version, by leaps and bounds, of C52 promulgated in 1936, which set a standard of 6 day minimum annual leave per year. While C52 gained 53 ratifications before it went outdated, C132 has only 39. Notably, of these 39, none are from Asia, and over half are European.

I did not study the reason why each of the non-ratifying countries did not adhere to C52 or its new version C132, or why they chose to remain with 6 days of C52 (if they do not denounce in the end of each 10 year term, C52 will continue to be in force for these countries). The fact is: the ratification rate for this minimum "Holidays with Pay" concept is strikingly low, compared to core conventions like those on discrimination (175 ratifications) or employment policy (117). C52 was a product of the post-WWI labour movement; C132 emerged from a post-WWII era of economic shift and rising living standards. The ILO's experience suggests that too aggressive intervention in developed economies, while well-intentioned, can be counterproductive, leading to low uptake.

This brings us back to the central paradox of capitalism: balancing social welfare and economic impact. They are not necessarily mutually exclusive. While many see annual leave as a trade-off against productivity, savvy business strategists view it as a powerful recruitment tool and a productivity booster. Our human bodies have a bottom line, crossing which they get burnt out, and naturally, productivity drops to zero. Seldom my clients take away my advice on the minimum requirements under Macau labor laws without adjustment, however low hanging fruits as they appear. Almost never, my advice results in a plain statutory minimum 6 days in the employment contract template. Savvy HR leaders immediately ask me about benchmarks and competition landscape of the local market. They know that the costs of a high turnover crisis or unbudgeted retention battles can far outweigh the cost of a few extra days of well-managed leave.

## *The Elephant in the Room: The Unasked Questions*

For this amendment, the government commissioned a third-party feasibility study. I am yet to see the questions set out in the survey conducted by the entrusted institution. By judging from the findings reported in the consultation booklet, I can assume that this is a rather formal survey. It's a no-brainer that employees will ask for more and employers for less. Employee leave entitlement is not only a socially relevant matter. Soliciting opinions from society is not the only first step. This process requires parallel tracks of scientific, empirical, and financial data. A proposal built on insufficient data risks sudden changes of announced direction and frustrates market expectations.

While increased entitlements may be manageable for large scale employers, they could be devastating for some SMEs. Consider a time-honoured Macau SME with ten employees, each averaging ten years of service. Under the proposal, nearly all of them would see their annual leave double almost overnight. This stands in stark contrast to the "progressive" intent of the structure. Given that SMEs account for 99% of Macau's businesses, the study's public report fails to address: how many SMEs would face this sudden doubling? How many would be forced to increase headcount to cover the gaps? How many would simply not survive the increased labour costs?

Furthermore, the study does not appear to have probed how many employers might —covertly — alter their hiring practices for women of childbearing age if maternity leave is raised to 80, 90, or 120 days. Although it is very likely to see government subsidy (same as in the last amendment from 56 days to 70 days in 2020) to be implemented as transitional relief, these questions are still very relevant. The findings would shape not just the leave quantum, but also the supporting architecture. For example, should the proposal also include setting up an independent anti-discrimination committee or ombudsman to monitor and penalize discriminatory behaviour against women once the new law takes effect?

In the "not so promising" business environment Macau's SMEs currently navigate, these are the priority questions that need answers.

## *The Outlook: Preparing for the Inevitable*

The public consultation phase for this proposal runs until March 16th, 2026. My assessment, however, is that this enhancement will be approved largely as proposed. My rationale is based on pragmatism and timing. First, the proposal has little room to wiggle. Adjusting the numbers upwards or downwards now would create unnecessary waves of discontent from either side of the stakeholders. Second, this amendment is the first item on an ambitious 2026 government agenda. Other equally important and sensitive amendments of employee rights are on the pipeline – the maximum work injury and professional disease compensation; and maximum severance pay under unilateral termination of employment. To meet the legislative timeline, there will be no appetite for further studies or re-consultations before the bill enters the Legislative Assembly for its typically lengthy discussion among standing committee members.

Therefore, the writing is on the wall. For HR leaders, the prudent path is to start preparing now, drafting headcount proposals, updating employment contract templates and employee handbooks, and giving instructions to your vendors to configure HRIS systems for the new rules.

The question isn't really "if." It's "are you ready?"

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