

Other Relevant Legislative Requirements Concerning Employment of Staff

Concerning the arrangement on employment of staff, residential care homes for persons with disabilities (RCHDs) shall comply with other relevant legislative requirements as follows –

(1) Salary

Employee salaries shall comply with the requirements of the Minimum Wage Ordinance (Cap. 608) and be commensurate with the qualifications, job responsibilities and performance. The salary scale should be reviewed regularly and if necessary, considered for adjustment having regard to the prevailing economic situation.

(2) Sick Leave

Under section 37 of the Employment Ordinance (Cap. 57), every employer shall keep a record of all paid sickness days taken by each employee. Proper maintenance of sick leave records of employees is one of the important indicators of good occupational health and safety practice. It also allows early identification of an outbreak of infectious disease. A medical practitioner's certificate should be produced for any sick leave exceeding 2 working days. Any employee meeting the criteria prescribed under Part VII (Sickness Allowance) of the Employment Ordinance is entitled to have sickness allowance.

(3) Maternity Leave/Paternity Leave

Pregnant employees/eligible male employees covered by the Employment Ordinance are entitled to have maternity leave and maternity leave pay under Part III (Maternity Protection)/paternity leave and paternity leave pay under Part IIIA (Paternity Leave) of the Ordinance. Under section 15B of the Employment Ordinance, every employer shall maintain a record of maternity leave taken by and maternity leave pay paid to his/her employees.

(4) Annual Leave

Eligible employees meeting the criteria prescribed under Part VIIIA (Annual Leave with Pay) of the Employment Ordinance are entitled to have annual leave with pay.

(5) Termination of Service

Subject to the Employment Ordinance and relevant contract terms that are consistent with the Ordinance, either party to a contract of employment may terminate the contract by giving to the other party notice, orally or in writing, of his/her intention to do so, and by giving the other party due notice or payment in lieu of notice. Part II of the Ordinance sets out the relevant provisions on termination of contract of employment.

(6) Employees' Compensation Insurance

Under the Employees' Compensation Ordinance (Cap. 282), as employers, operators of RCHDs shall take out policies of employees' compensation insurance to cover the employers' legal liabilities, including under the common law. Otherwise, no employees (including full-time and part-time employees) shall be employed to engage in any work.

(7) Mandatory Provident Fund

The Mandatory Provident Fund (MPF) is a retirement protection system established under the Mandatory Provident Fund Schemes Ordinance (Cap. 485). As employers, operators of RCHDs shall comply with the requirements under the Ordinance. All employees attaining the age of 18 but below 65 shall participate in registered MPF schemes or other approved retirement schemes and comply with the requirements as stipulated in the Ordinance.

(8) Importation of Labour

Local workers shall be given priority in filling job vacancies. Operators who are genuinely unable to recruit local workers to fill the job vacancies can be allowed to bring in imported workers. Operators and home managers shall strictly observe the Laws of Hong Kong, the requirements stipulated in the Special Scheme to Import Care Workers for Residential Care Homes or Enhanced Supplementary Labour Scheme (formerly known as Supplementary Labour Scheme) and the standard employment contract (the standard contract) if they are granted the approval to import workers via the above-mentioned schemes. Operators shall be liable for any contravention of the labour or immigration laws (including the Employment Ordinance, the Employees' Compensation Ordinance, the Immigration Ordinance and the Occupational Safety and Health Ordinance). In addition, operators shall be subjected to administrative sanction, i.e. withdrawal of quota/approval for labour importation, and ban on participation of the relevant labour importation schemes in the following 2 years for any contravention of the relevant laws, and the requirements of the standard contract and the above-mentioned labour importation schemes.

(9) Others

Personnel policies of RCHDs shall comply with the conditions and requirements stipulated in the Employment Ordinance.

Personal Data

Operators should ensure that the personal data of residents and/or employees shall be used (including disclosure and transfer) in compliance with the Personal Data (Privacy) Ordinance (Cap. 486). For details, please refer to paragraph 8.10 of Chapter 8 in the Code of Practice for Residential Care Homes (Persons with Disabilities) and the website of Privacy Commissioner for Personal Data (<https://www.pcpd.org.hk>).