

## Maternity Leave and Welfare Facilities under the New Mother & Child Welfare Law

August 2024

On 2 July 2024, the Indonesian Government enacted Law No. 4 of 2024 on Mother and Child Welfare in the First Thousand Days of Life Phase (the “**Mother & Child Welfare Law**”) which came into effect on the same date. The Mother & Child Welfare Law regulates general aspects of maternal and child welfare, including the rights of mothers, fathers and their children in the workplace. The new law provides a 2-years grace period for the issuance of the implementing regulations.

The salient points under the Mother & Child Welfare Law include, among others, the following:

### 1. Maternity Leave

The Mother & Child Welfare Law stipulates that working mothers are entitled to a minimum 3 months of paid maternity leave. This law re-introduces the possibility of the extension of maternity leave (*i.e.*, up to an additional 3 months) if there are special circumstance (affecting the mother post childbirth delivery and/or the newborn baby) as evidenced by medical certificate.

However, the Mother & Child Welfare Law is silent on determining the commencement date of maternity leave. Under the prevailing Manpower Law clearly regulated that maternity leave is to be taken 1.5 months before and 1.5 months after childbirth. Further, maternity leave could be extended either before and/or after childbirth, subject to a medical or midwife certificate. Additionally, the Manpower Law was silent as to the duration for any extension.

It is unclear under the Mother & Child Welfare Law should a working mother suffer an illness or complication due to childbirth which requires an extensive period of recovery, whether this would fall under the category of prolonged illness<sup>1</sup>.

Similar to the prevailing Manpower Law, in the case of miscarriage, the Mother & Child Welfare Law provides a period of 1.5 months paid leave or as specified by a doctor, obstetrician or midwife certificate.

In terms of salary obligations, the below table summarises the key differences between the Manpower Law and the Mother & Child Welfare Law:

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<sup>1</sup> For the first 4-month, the employee’s salary will be 100%. For the second 4-month, it will be 75%, and for the third 4-month, it will be 50%. For the subsequent months, the employee will be entitled to 25% of their salary until they are terminated by the company.

	<b>Salary under Manpower Law</b>	<b>Salary under Mother &amp; Child Welfare Law</b>
Childbirth	- Full pay for the 3-month period (unclear as to what is applicable during the extension period)	- Full pay for the first 4-month - 75% for the 5 <sup>th</sup> and 6 <sup>th</sup> months
Miscarriage	- Full pay	- Full pay

## **2. Paternity Leave**

The Mother & Child Welfare Law provides for a period of paid paternity leave for 2 days after the date of childbirth or if the mother suffers a miscarriage. Further, the Mother & Child Welfare Law provides that paternity leave may be extended by up to 3 days or in accordance with the agreement between employer and employee concerned. The Mother & Child Welfare Law does not specify any required conditions and the payment during the potential 3 days of paternity leave extension. Hence, it is prudent to specify any such conditions under an employment agreement, Company Regulation, and/or Collective Labor Agreement.

## **3. Welfare Supports and Facilities in the Workplace**

The Mother & Child Welfare Law introduces rights for every working mother of:

- (i) sufficient opportunities and facilities for health and nutrition services and lactation<sup>2</sup>;
- (ii) sufficient time off (if necessary, based on the child’s needs); and/or
- (iii) access to daycare that is affordable in terms of distance and cost.

Of particular note for employers is that the term “sufficient time” must be defined in the employment agreement, Company Regulation, or Collective Labor Agreement.<sup>2</sup>

As to welfare supports and facilities in the workplace, employers are also expected to provide adjustments in duties, working hours, and/or the workplace to support working mothers in accordance with their work conditions and targets. Again, such changes should be recorded in Company Regulations or Collective Labor Agreements.

*Our employment team will be happy to discuss any questions you might have. For further assistance and inquiries, please contact Partner, Made Barata ([mb@mkklaw.net](mailto:mb@mkklaw.net)).*

<sup>1</sup> Consisting of breastfeeding, preparing, expressing and/or storing expressed breast milk (elucidation of Article 4 (3) letter c of the Mother & Child Welfare Law).

<sup>2</sup> Elucidation of Article 4 (3) letter d of the Mother & Child Welfare Law.