



Client Alert August 2024

Regulation Update on Law Number 4 of 2024 Concerning Maternal and Child Welfare

Background

Ratified and promulgated on 2 July 2024, the Law Number 4 of 2024 Concerning Maternal and Child Welfare During the First Thousand Days of Life ("Law 4/2024") consists of 9 (nine) chapters and 46 (forty-six) articles which contain provisions that apply to enforcing the maternal and child welfare, particularly during the first thousand days of life, including rights and obligations, duties and authority, implementation of maternal and child welfare, data and information, funding and community participation.

Overview

Upon enactment of Law 4/2024, it is noteworthy that the employers should re-evaluate its policies to comply with the fulfilment of employment rights of working mother, which are as follows: 1

¹ Article 4 paragraph (3) of Law 4/2024;

MATERNITY LEAVE

- Law 4/2024 provides the right to obtain maternity leave for at least 3 (three) months at the first cycle and additional cycle of 3 (three) months (if specific health conditions occurred, evidenced by a medical certificate;
- Compared to Manpower Law, maternity leave is granted prior to giving birth for 1.5 (one and a half) months, and subsequently
 additional 1.5 (one and a half) months after giving birth, which can be extended based on a medical certificate from the doctor
 (either before/after giving birth).

PATERNITY LEAVE

- According to Law 4/2024, paternity leave will be given for 2 (two) days, and maximum of 3 (three) subsequent days (as agreed), or, when experiencing a miscarraige (granted for 2 (two) days) - (subject to Article 6 paragraph)2) of Law 4/2024); and
- Compared to Manpower Law, the period of paternity leave is not specifically stipulated, however, the Manpower Law provides 2 (two) days of paid leave for working husband, whose wife is giving birth or experiencing a miscarriage (subject to Article 93 paragraph (4) of Manpower Law).

MISCARRIAGE LEAVE • Law 4/2024 provides miscarriage leave for 1.5 (one and a half) months, after miscarriage, or in accordance with a medical certificate issued by the doctor or midwife.

FACILITIES

• The right to possess adequate opportunities and services in health facilities, and the right to enjoy decent or proper nutrition and lactation during working hours. In this regard, subject to the Elucidation of Article 4 paragraph (3), alphabet c of Law 4/2024, the range of "lactation" activities shall include breastfeeding, preparing, milking, and/or storing expressed breast milk.

• The right to enjoy sufficient time for the best interests of the mother's children as necessary. According to the Elucidation of Article 4 paragraph (3), alphabet d of Law 4/2024, the definition and limitation of term "sufficient time" should be regulated clearly in the employment agreement, company regulation, or collective labor agreement.

ACCESSIBII ITV

- The right to obtain accessibility for affordable and reachable childcare facilities (either measured by distance or measured by cost related matter); and
- The right to receive support in the workplace which consists of (i) health service facility; (ii) lactation room facility; and (iii) daycare services facility (subject to Article 30 paragraph (3) of Law 4/2024).

SUPPORT

• The right to obtain support in the form of adjustments to tasks, working hours, and/or workplace while still maintaining working conditions and achievement targets (subject to Article 30 paragraph (4) of Law 4/2024).

• The right to achieve and obtain sense of a mother-and child-friendly environment and receiving protective services to create an environment and services that are free from acts of violence, discrimination, neglect, exploitation, and other abuse (subject to Article 33 of Law 4/2024).

- According to Law 4/2024, salary will be fully paid for the first three months, full salary is granted in the fourth month, and 75% (seventy
 five percent) of the salary for the fifth and sixth months (subject to Article 5 paragraph (2) of Law 4/2024);
- Compared to Manpower Law, fully paid salary for 3 (three) months period of maternity leave is granted (subject to Article 84 of Manpower Law).

Sanction

The scope of sanctions imposed under Law 4/2024 are provided and limited in the form of administrative sanctions (could be in the form of verbal and/or written warnings). The scope of which is intended for the following violations:²

- (i) The unavailability of health and nutrition services which meet the criteria of health service standard;³
- (ii) Providers of family planning service facilities has not implemented the provisions such as (among others) accessibility to services for mothers or fathers in the form of communication, information, and education, which

² Article 30 in conjunction with Article 31, and Article 18 paragraph (2) of Law 4/2024;

³ Article 22 of Law 4/2024;

- concretely take the form of health and nutrition services, social welfare services, population administration services, civil registration, and so forth (as regulated in Article 18 paragraph (2) of Law 4/2024); and
- (iii) Employers, providers or managers of facilities, adequate accommodation, facilities, and infrastructure which incompliance with the provisions sets out under Article 30 will be given supervision and/or administrative sanctions.

While for criminal sanctions violating maternity leave provisions, the qualification will be referred to the prevailing manpower laws and regulations.

Key Takeaways

- 1. Law 4/2024 consists of 9 (nine) chapters and 46 (forty-six) articles which contain provisions that apply to enforcing the maternal and child welfare during the first thousand days of life, including rights and obligations, duties and authority, implementation of maternal and child welfare, data and information, funding and community participation;
- 2. Upon enactment of Law 4/2024, it is noteworthy that the employers should re-evaluate its policies to comply with the fulfillment of employment rights of working mother, such as (among others) maternity, paternity, and miscarriage leaves, health facilities, support and accessibility in the workplace, as well as fairness in terms of sense of mother-and-child-friendly environment; and
- 3. Administrative sanctions are imposed (could be in the form of verbal and/or written warnings) due to incompliance or violations under Law 4/2024, while criminal sanctions will be referred to the prevailing manpower laws and regulations.

For further information and/or inquiries related to this alert, you may contact:

Stefanus Brian Audyanto

Partner

Deloitte Legal Indonesia

Email: saudyanto@deloittelegal-id.com

Tammy A. Wenas Kumontoy Managing Associate

Deloitte Legal Indonesia

Email: tkumontoy@deloittelegal-id.com

Miranda Yemima Sumani Mamahit

Senior Associate
Deloitte Legal Indonesia

Deloitte Legal Indonesia

Email: mmamahit@deloittelegal-id.com

Yohan Prawira Pakpahan

Junior Associate
Deloitte Legal Indonesia

Email: yprawirapakpahan@deloittelegal-id.com

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