

My Worker is Pregnant



WHAT'S
NEXT?

**3-STEP GUIDE FOR EMPLOYERS OF
MIGRANT DOMESTIC WORKERS**

AN EMPOWERING RESOURCE PRODUCED BY



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INTRODUCTION



WE ARE HERE TO HELP!

My worker came here to work. Why did she get herself pregnant?

What?! How did it happen?

My husband and I work full-time. Can my worker cope with caring for my young children when she is pregnant? How can we manage when my worker is on maternity leave?

I have mixed feelings. I'm happy for my worker, but worried about my household.

I feel betrayed. Why did my worker not tell me earlier? I feel that she's not honest with me.

These are all very real concerns.

We have spoken with many employers of migrant domestic workers who have voiced out similar thoughts and feelings.

The good news is that after the initial shock, many employers have been able to work through the challenges, and come up with practical solutions for their households and their workers.

Let us do this together.

One step at a time.

For some migrant domestic workers whose pregnancies were planned, it can be a joyous anticipation. But for many others, love scams and the lack of reproductive health knowledge can lead to a worker's unexpected pregnancy. When that happens, often the worker may share in the employer's feelings of confusion or anxiety about the future.

COMMON QUESTIONS

Is my worker allowed to be pregnant? Is it legal?

Yes. Hong Kong employment laws acknowledge that all females in employment, including your migrant domestic worker, have the right to be pregnant.

Can I terminate my worker's contract when she is pregnant?

No. Except in cases of serious misconduct. Employers may be liable to pay a fine of up to \$100,000 for dismissing their pregnant workers.



Yes. With effect from 11 December 2020, all women working in Hong Kong are entitled to 14 weeks of maternity leave.

Is my worker entitled to maternity leave?

Can my worker have her baby in Hong Kong?

Do I have to pay for my worker's pregnancy-related expenses?

No. Employers are only responsible for their workers' maternity leave pay. Your worker is responsible for all other pregnancy-related expenses, such as doctor's fees and diapers.

Yes. However, she would need to be aware that this does not necessarily mean that her baby will attain permanent residency status in Hong Kong. In order for a child to be eligible for Hong Kong permanent residency, at least one parent needs to be a Hong Kong Permanent Resident.



STEP-BY-STEP GUIDE

We know finding out your migrant domestic worker is pregnant can create a unique challenge for you as an employer, so we've provided practical steps to guide you through the emotions and onto a path that gives you, your worker, and your household the support you need during this time.

Focus on Connecting

Pause on the Emotions
Connect with Your Worker



STEP

01



STEP

02

Gather More Information

Initial Questions to Ask Your Worker
Research Options for Your Plan



STEP

03

Create a Plan

Healthcare
Formal Notice
Giving Birth
Maternity Leave





STEP 01

Focus on Connecting

Pause on the Emotions

Shock. Betrayal. Happiness. Anxiety. Wanting to rejoice and do the right thing, while also nervously wondering how you're going to manage.

You and your worker are probably both experiencing an array of emotions about the future. Even if you're not ready to process and talk through things yet (STEP 2), you can focus on connecting with your worker and communicating your desire to walk through this together.

Expressing your frustration and anxiety towards her may make her fearful to talk to you about it in the future, or encourage her to hide things from you, which doesn't open the lines of communication like you'd want.

We've found that if both parties start from a place of empathy for each other, it's a lot easier to create win-win solutions together.

Connect with Your Worker

Thank her for telling you. It often takes a lot of bravery for a migrant domestic worker to tell her employer that she is pregnant.

Your migrant domestic worker can reach out to PathFinders via:

T: (+852) 5190 4886
FB: facebook.com/pffmw
E: info@pathfinders.org.hk

Even if you are upset about the news, take a moment to thank her for her honesty and reassure her that you'll figure this out together.

Express your support. Tell her about PathFinders who can work out a plan together with her that's best for her and her baby.

Schedule another time in the next few days to talk about this.



STEP 02

Gather More Information

Initial Questions to Ask Your Worker

Speak with your worker to gather initial details and thoughts. Keep in mind that the tone should be approachable and not interrogating, because your worker may just be as overwhelmed as you are; and may not know the answers to these questions yet. This is just your starting place.

You could say...
"Let's chat for a few minutes tonight about your pregnancy. It would be great for me to understand your preferences. It's OK if you don't have all the answers. We'll just talk through this step by step and learn together."

Have you seen a doctor yet? Has the doctor declared you "fit to work"?

Will you have your baby in Hong Kong or your home country?

When do you plan to start your maternity leave?

Are you planning to return to work right after your maternity leave, or take additional time off as annual or unpaid leave?

When is the due date?

What are your plans for your baby?

How have you been feeling? Any complications?

Where will your baby be raised?

**STEP
02****Gather More Information****Research Options for Your Plan**

After asking those initial questions, give yourself (and your worker) some time to think or research, and set a time to come back to each other soon to start drafting a plan. **It's OK if the plan changes over the months, but creating some sort of plan helps both of you to start taking steps in the right direction.**

Here are issues for both of you to think through and consider as you create a plan.

Pregnancy Safety

All pregnant women in Hong Kong are entitled to a safe working environment, which implies staying away from harsh chemicals and toxic cat litter. It's best to discuss with your worker if she has concerns about handling her daily tasks, such as carrying young children. She could seek medical advice from a doctor, and produce a medical certificate if she is deemed unfit to undertake certain tasks.

Maternity Leave

Some workers may decide to commence their maternity leave 2 to 4 weeks before the estimated date of delivery (EDD). Others may work until their third trimester before flying back home to await the birth of their child.

Post-birth Living Arrangement

Employers are not required to provide housing for their workers' babies. Your worker is responsible for the care and housing of her baby.

Note: Some workers may choose to live out with their partners during their maternity leave in Hong Kong. If this is your worker's intention, please check with the Labour Department directly.

Resignation

If your worker is choosing to resign and you need to find a new worker, you may want to hire them in time to overlap if you want the pregnant worker to train your new worker.



STEP 03



Create a Plan

Healthcare

Connect your worker with a doctor/ health plan. All workers (within their employment contract) are entitled to access public healthcare in Hong Kong. **Note: Helper insurance policies in Hong Kong exclude pregnancy and childbirth.**

Mark down her doctor appointments and find coverage for her duties on those days. Ask your worker to check with her doctor to ascertain if she is “fit to work”.

You may wish to re-schedule or re-adjust your worker’s workload to ensure she has adequate rest and energy.

Your worker can utilise antenatal and obstetric services at local public hospitals and Maternity and Child Health Centres (MCHC), at the same affordable cost as local residents. Postnatal services are also available for her and her baby at the MCHC. **Antenatal and postnatal services are free for holders of a HKID card.** Your worker will need to visit the hospital and MCHC located in the same district as her listed address.

Formal Notice

Let your worker know that she needs to give you a formal notice of her pregnancy and intention to take maternity leave, just like every pregnant employee in Hong Kong.

Help her do that if she’s not sure how.

The formal notice should be accompanied by a medical certificate specifying the expected due date (EDD).

This certificate may be issued by a registered doctor, Chinese medical practitioner, or midwife.

Check out the resource section for more information about public maternal healthcare in Hong Kong. A sample notification letter is also enclosed in the Appendix section.



STEP 03



Create a Plan Giving Birth



Which country will your worker give birth in?

If it will be in her home country, has she made the necessary arrangements? Please remind your worker to check airline policies on flying when heavily pregnant. If it will be in Hong Kong, which public hospital will it be? To locate a public hospital near your home, please refer to our resource section.

Maternity Leave



Figure out your worker's maternity leave pay, so that you can adjust your budget accordingly. Do inform your worker ahead of time to ensure you are both on the same page. Agree on how and when your worker's maternity leave will be paid; especially if your worker will be returning to her home country to give birth and/or will remain there during her maternity leave.

Speak to your boss and see if you can reshuffle work commitments or schedules ahead of time. Plan ahead for how you will cover your worker's duties while she is on maternity leave. See our Resource List for ideas.

Who You Can Ask for Help When Your Worker is on Maternity Leave:
Part-time Local Domestic Workers, Cleaners, Babysitters, Friends, Family, Trusted Contacts from Religious, Interest and Support Groups

Maternity Leave Pay =

4/5 or 80%
of Your Worker's
Monthly Salary*

** Eligible for workers who have been employed for at least 40 weeks. For those who have been employed for less than 40 weeks, they are still entitled to unpaid maternity leave.*

There is no statutory guideline for employers to provide meal allowance to their workers during maternity leave. However, it is always good to bring this up with your worker if she is taking her maternity leave in Hong Kong; so both of you are in agreement.





CONCLUSION



KEYS TO SUCCESS

COMPASSION

COMPASSION for each other, realising you and your helper are probably both experiencing a range of emotions. Open sharing can lead to understanding and support.

COMMUNICATION

COMMUNICATION of preferences, questions, and details along the way helps each party feel valued and makes decision-making a lot clearer.

CREATION

CREATION of a plan with practical next steps makes the process seem less intimidating, so you can walk in as much unity and clarity as possible.

CONFIDENCE

CONFIDENCE that you are moving forward with peace of mind by fulfilling your legal obligations. This provides the best possible outcome for you, your family, your worker and her baby.



RESOURCE LIST

Note: The following information, accurate as at November 2020, is provided as resources and not necessarily endorsed by PathFinders or Helpwise.

Local Domestic Help

**Smart Living by
Employees Retraining Board**
www.erb.org/smartliving

HelloToby (Home Maid)
www.hellotoby.com

Smart Home
www.shome.com.hk

Home Cleaning

Merry Maids
<http://www.merrymaids.com.hk>

Top Maids Home Cleaning Co
<http://www.topmaid.com.hk>

Lazy
www.lazy.com.hk/

Child Care

Babysitter.hk
www.babysitter.hk

Rent-a-Mum
www.rent-a-mum.com

The Nanny Experts
www.thenannyexperts.hk

Elder Care

**Smart Living by
Employees Retraining Board**
www.erb.org/smartliving

**Active Global Specialised
Caregivers**
www.activeglobalcaregiver.hk

Pet Care

Furrenz Pet Sitters
www.furrenzpetsitters.com

PetBacker
www.petbacker.com

Pawshake
www.pawshake.com.hk

Laundry

Sunshine Laundry
www.sunshinelaundry.com.hk

Clean Living
<http://www.cleanliving.com.hk>

Impressed
www.impressed.hk



RESOURCE LIST

List of Consulates in Hong Kong:

<https://www.protocol.gov.hk/eng/consular/index.html>



Immigration Department for Birth Registries:

<https://www.immd.gov.hk/eng/contactus/birth.html>

Labour Department:

Hotline: 2717 1771

Email: enquiry@labour.gov.hk

Website: www.labour.gov.hk

Guide to the Employment Ordinance, Chapter 6 on Maternity Protection:

<https://www.labour.gov.hk/eng/public/wcp/ConciseGuide/06.pdf>

List of Public Hospitals, Maternity & Child Health Centres in Hong Kong:

https://www.fhs.gov.hk/english/main_ser/process.html

Tip: Keep in mind when calling to ask questions, always note down the name of the person you spoke to, just in case you need to reference it later or call to ask a follow-up question.

If your worker chooses to give birth in Hong Kong, she would need to process the relevant identity documentation for her newborn at her Consulate and Hong Kong's Immigration Department.



APPENDIX



NOTICE OF INTENTION TO TAKE MATERNITY LEAVE

[Employer's Name]
[Employer's Address]

[Date]

[Worker's Name]
[Worker's Address]

Notice of Intention to Take Maternity Leave

Dear _____ [insert employer's name],

I am writing to confirm that I am pregnant and that my baby will be due on _____ [insert expected date of delivery]. Therefore, I wish to take maternity leave starting from _____ [insert date] and ending on _____ [insert date] for a period of 10 weeks [before 11 December 2020]/ 14 weeks [after 11 December 2020].

I would also wish to take my annual leave and unpaid leave from _____ [insert date] to _____ [insert date]*. [*Only if applicable.]

I should be able to resume work on _____ [insert date].

Enclosed is my relevant medical certificate.

Thank you and best regards.

Yours sincerely,

[Insert Worker's Signature]

[Insert Worker's Name]



**What Happens
to Migrant
Domestic Workers
and Their Babies
if the Worker
Loses her Job?**

A pregnant migrant domestic worker faces many hardships when her employment is terminated. She immediately becomes homeless.

Within two weeks, she is required to leave Hong Kong, losing access to all public welfare support and healthcare for vital antenatal screening.

For workers who are unable to return to their home countries, their children are typically undocumented, stateless and cannot access essential services like medical care, immunisations, and education in Hong Kong.

These children and their mothers are among the most vulnerable and disadvantaged people in Hong Kong.

PathFinders seeks to provide advice and solutions for migrant domestic workers and their employers throughout the pregnancy process in hopes of creating positive alternatives for everyone involved: the employers, the workers and their babies.



“ WE
HOPE THAT
THIS BOOKLET
HAS GIVEN YOU
THE NECESSARY
ADVICE AND
RESOURCES TO
SUCCESSFULLY
MANAGE THE
SITUATION OF
YOUR MIGRANT
DOMESTIC WORKER
BEING PREGNANT.
IF WE CAN SUPPORT
YOU FURTHER,
PLEASE FEEL
FREE TO
CONTACT US.”

**PathFinders
& Helpwise**



About PathFinders

PathFinders ensures the most vulnerable and unsupported children in Hong Kong are protected and respected, and their migrant mothers are empowered to find a path to a bright future. PathFinders believes that every child deserves a fair start in life.

Your pregnant migrant domestic worker can reach out to PathFinders for information and support, so she can come up with the best possible plan for her and her child. You can also connect with PathFinders to find out more about your legal obligation as an employer, and how you can better support your worker during her pregnancy journey.

About Helpwise

Through workshops and private consultations, Helpwise provides practical guidance and support to employers, agencies, and organizations on how to navigate and professionalize the unique Employer/Helper working relationship. You'll receive relevant, non-judgmental advice and solutions that are tailored to your household and business needs.

ACHIEVING POSITIVE OUTCOMES FOR
EMPLOYERS, MIGRANT DOMESTIC WORKERS AND AGENCIES



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