

# Changes to Chinese Parental Leave Benefits

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International Employment

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China amended its Population and Family Planning Law in December 2015. It abolished the one-child policy and eliminated incentives for late marriage and late parenthood. Many provinces are announcing changes to local regulations to comply with the national amendment.

## **Marriage Leave and Incentives**

The approaches taken by the provincial authorities with respect to marriage leave vary greatly. Some provinces have abolished the additional incentive leave for late marriage under the old law, leaving only the three-day marriage leave provided under the national law, while others have extended the marriage leave to include the original incentive days. There are also some provinces that provide for far more generous marriage leaves ranging between 13 and 30 days.

## **Changes to Paternity and Maternity Leaves**

Most provinces have elected to be more generous with parental leave, making specific provisions for paternity leaves ranging between seven days and one month in duration.

Most of the provinces have included at least the extra 30 days' maternity leave given to first-time mothers under the old law as part of standard maternity leave, increasing the 98-day maternity leave to a longer maternity leave ranging between 128 and 158 days for most provinces.

Fujian and Beijing appear to provide some flexibility in the duration of maternity leave, but do not provide any details with respect to implementation. The Fujian regulation provides for maternity leave ranging between 158 days to 180 days, but does not provide any guidance as to how the exact duration is determined. The Beijing regulation provides that female employees may, subject to the approval of their employers, have an additional one-to-three months of maternity leave, which means they could enjoy up to a total of seven months of maternity leave. However, actual implementation of this rule, particularly with respect to the employer's autonomy to make such a decision and the salary these female employees would be entitled to during this additional period, remains to be seen.

We have summarized the revised entitlements in the table below:

Province	Marriage Leave	Original Late Marriage Leave (Now Abolished)	Maternity Leave	Paternity Leave
Beijing	10 days	7 days	128 days to 7 months	15 days
Shanghai	10 days	7 days	128 days	10 days
Tianjin	3 days	7 days	128 days	7 days
Shandong	3 days	14 days	158 days	7 days
Zhejiang	3 days	12 days	128 days	15 days
Anhui	3 days	20 days	158 days	10 days (20 days if the couple do not reside in the same locality)
Jiangxi	3 days	15 days	158 days	15 days
Fujian	15 days	15 days	158 to 180 days	15 days
Guangdong	3 days	10 days	128 days	15 days
Guangxi	3 days	12 days	148 days	25 days
Hubei	3 days	15 days	128 days	15 days
Shanxi	30 days	30 days	158 days	15 days
Ningxia	3 days	15 days	158 days	25 days
Sichuan	3 days	20 days	158 days	20 days
Liaoning	10 days	7 days	158 days	15 days
Henan	21 days	18 days	188 days	1 month
Shannxi	13 days	20 days	158 days	15 days (20 days if the couple do not reside in the same locality)
Heilongjiang	15 days	15 days	180 days	15 days
Gansu	30 days	30 days	180 days	30 days
Hainan	13 days	10 days	188 days	15 days
Yunnan	18 days	15 days	158 days	30 days
Guizhou	13 days	10 days	158 days	15 days
Chongqing	15 days	10 days	128 days	15 days
Jilin	15 days	12 days	158 days	15 days
Jiangsu	13 days	10 days	128 days	15 days
Hunan	3 days	12 days	158 days	20 days
Inner Mongolia	18 days	15 days	158 days	25 days
Hebei	18 days	15 days	158 days	15 days
Qinghai	15 days	15 days	158 days	15 days

The shift to a two-child policy represents a significant change in China's population policy that will go a long way toward easing the pressures posed by a rapidly aging population. However, many crucial questions remain unanswered. For example, will the wages payable during maternity leave for the second child be covered by maternity insurance? Beijing has just issued a notice this June providing for an affirmative response, and other provinces are likely to follow suit. Also, it remains to be seen how the government plans to cover the additional costs that will be incurred due to this policy change—whether they will come from tax revenues or increased social insurance premiums payable by the employee and/or the employer. Employers will need to make adjustments to their human resources guidelines to comply with these new rules, and some may need to plan ahead in terms of their workforce staffing to accommodate the changes brought about by this new policy.

If you have any questions concerning the material discussed in this client alert, please contact the following members of our practice group:

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