

Corporate Commercial Client Alert

Employment & Pensions

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Confirmed: It's not a rest day if the employee is on standby

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Last March, our Grab n Go episode [spoke](#) about the District Court decision in the case of *Breton Jean v. H-K Bellawings Jet Limited*, which principally dealt with the question of whether the employee pilot, on days when he was not on flight duty, but had to be contactable by his work phone and report to work on short notice after being contacted, should be regarded to be on standby duty on such days, and therefore not being granted a rest day on such days.

The Court of Appeal recently upheld the District Court's decision, confirming that regardless of how an employer names a day (e.g. "day off" or "standby") and regardless of whether the employer actually calls an employee to report to duty on such day, to qualify as a rest day under the Employment Ordinance, a benefit which all employees under a continuous contract are entitled to every seven days, employers must ensure that the rest day consists of a full 24 hours from which employees are able to abstain from working.

If your company offers more than one rest day to employees every week, you should make it clear to your employees which one is the contractual rest day and how it is treated (e.g. employees may be asked to work on such day).

Please let us know if you require any advice in this regard.

Want to know more?

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