

## OVERVIEW OF EMPLOYMENT FRAMEWORK IN MALAYSIA

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Malaysia has a set of employment-related legislations that provide the framework for regulating employer-employee relationships. Legislation is supplemented by case law.

In Peninsular Malaysia and the Federal Territory of Labuan, employment law is primarily governed by the Employment Act 1955 ("EA"). The EA does not apply in the regions of Sabah and Sarawak in East Malaysia. Effective from 1 January 2023, the EA covers all employees employed under a contract of service; however, certain provisions are excluded for specific groups of employees.

Some important aspects of employment law in Malaysia are as follows:

### 1. Leave

- **Paid Sick Leave:** The EA specifies the minimum number of days of paid sick leave an employee is entitled to, based on their length of service. There is also a separate provision for sick leave when hospitalisation is required.
- **Paid Annual Leave:** Employees are entitled to paid annual leave under the EA, which depends on their length of service with the employer.
- **Paid Maternity Leave:** Subject to conditions set out in the EA, all female employees are entitled to paid maternity leave.
- **Paid Paternity Leave:** Eligible fathers are entitled to paid paternity leave under the EA.

### 2. Paid Public Holidays

The Federal and State Governments gazetted certain days as public holidays but employees are not automatically entitled to be paid for all gazetted public holidays. The EA mandates 5 public holidays to be observed as paid public holidays but another 6 days are optional. Although the EA only requires employees to be given 11 days of paid public holidays, most employers grant paid holidays on all public holidays gazetted by the Federal Government and the State Government where the employees primarily perform their work.

### 3. Working Hours, Days, and Overtime

The EA includes provisions to ensure working hours of employees do not exceed permissible limits to safeguard employees' well-being.

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Further, employees are entitled to at least one rest day per week. Except for some of the excluded employees, employees working beyond normal hours of work or working on a rest day or paid public holidays are entitled to overtime or additional pay at specified minimum rates.

#### 4. **Retirement Age**

Malaysian law prescribes a minimum retirement age and employers are prohibited from compelling employees to retire earlier than such age.

#### 5. **Wages**

The law also specifies minimum wage thresholds for employees.

#### 6. **Statutory Contributions**

With limited exceptions, employers and employees are required to contribute to statutory schemes including contributing to the Employees Provident Fund (EPF), the Social Security Organisation (SOCSO) and the Human Resource Development Fund as well as under the Employment Insurance System (EIS), to provide social protection for the employees.

#### 7. **Trade Unions**

The law also recognises the rights of employees to form and join trade unions and for trade union to undertake certain activities, subject to compliance with statutory requirements.

#### 8. **Protection from Unjust Dismissal**

Dismissal of employees in Malaysia must be for just cause or excuse. Employees who believe they have been unfairly dismissed can seek redress under the Industrial Relations Act 1967, which provides mechanisms for conciliation and adjudication of disputes. If the Industrial Court determines that an employee has been unjustly dismissed, the employee is entitled to substantive remedies.

#### 9. **Flexible Work Arrangements (FWA)**

The EA has been recently amended to include provisions on flexible working arrangement. Employees can now make official request to the employer for flexible working arrangements to cater to their personal and professional needs.

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**10. Discrimination**

Malaysian employment law prohibits discrimination in employment. Employers are encouraged to treat all employees with fairness as there may be consequences to the employer if a complain of discrimination in employment is lodged to the authority against the employer.

**11. Immigration Requirements**

Employers intending to have foreign workers and expatriates enter into and perform work in Malaysia must comply with local immigration laws, including securing prior approval from the relevant authorities and obtaining valid work permits. Nevertheless, foreign visitors may be allowed to undertake limited business activities such as attending to business discussion or signing of agreements without securing an official work permit.

Other relevant legislations include those protecting personal data, those placing responsibilities to ensure health and safety of employees and those stipulating minimum standards for housing for employees.

**Conclusion**

Malaysian employment law seeks to balance the needs of employers and employees by providing a comprehensive framework of rights, responsibilities and protections. These provisions reflect the government's commitment to fostering a fair and sustainable working environment across various industries.

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