



MALAYSIA

Employment Law in Malaysia: What You Need to Know

Malaysia has grown to become a popular regional hub for expansion into the Association of Southeast Asian Nations (ASEAN) region, complemented by its favourable geographic location and multilingual mix of Malay, Indian and Chinese populace. The labour laws in Malaysia are often perceived to favour the employees, hence it is important that businesses are compliant with the local employment laws and practices. Employment law is typically governed by the Employment Act (EA), 1955 and it sets out certain minimum benefits for Malaysian employees and foreign nationals who fall within the following categories:

- Employees whose monthly salary is RM2,000 or below;
- Employees who are manual labourers, regardless of salary
- Employees engaged in the operation or maintenance of mechanically propelled vehicle
- Employees who supervise or oversee manual labourers
- Employees engaged in any capacity on a sea vessel (subject to certain other conditions)
- Domestic servants

Salary & Overtime

In Malaysia, the minimum wage for the private sector in Peninsular Malaysia is RM1,000 a month and RM920 in Sabah, Sarawak and Labuan. The minimum wage policy also applies to employees who are paid based on piece rate, tonnage, task trip or commission.

Employees have the right to be paid overtime if they are required to work more than what is stated in their employment contract. Payment for overtime work is as follows:

| | |
|--|---|
| Working in excess of normal working hours on a normal | 1.5x hourly rate of pay |
| Rest day, but working normal working hours | Where work does not exceed half his normal hours of work: ½ the ordinary rate of pay for work done on that day Where work is more than half but does not exceed normal hours of work: 1 full day's wages at the ordinary rate of pay |

| | |
|--|---|
| Rest day, but working in excess of normal working hours | 2x hourly rate of pay |
| Public holiday, but working normal working hours | 2 days of wages at ordinary rate of pay |
| Public holiday – in excess of normal working hours | 3x hourly rate of pay |

Working Hours & Holidays

Employees are not required under their contract of service to work:

- More than 5 continuous hours without a minimum resting time of 30 minutes
- More than eight hours in a day
- More than 48 hours in one week

Employees are entitled to at least one rest day in a week as well as 11 gazetted public holidays, five of which include:

- National Day
- Birthday of Yang di-Pertuan Agong
- Birthday of the Ruler or the Yang di-Pertua Negeri of the state where the employee works
- Labour Day/Worker’s Day
- Malaysia Day

The other 6 holidays are chosen by the employer from the list of gazetted public holidays and they must be exhibited conspicuously at the workplace and specified by the employer which remaining six gazetted public holidays are being observed.

There have been instances where the government has declared a public holiday without much notice to the public. One recent example was in May 2018 when the government declared 3 public holidays for all regions except Sarawak, in conjunction with the 14th general election.

Annual Leave

The minimum requirements for annual leave is as follows:

| Length of Service | Annual Leave Entitlement |
|--|---------------------------------|
| Less than 2 years | 8 days |
| 2 years or more, but less than 5 years | 12 days |
| More than 5 years | 16 days |

Termination of Employment

Employees are entitled to the minimum notice period prescribed under the EA unless they are dismissed for a justifiable reason, such as poor performance, redundancy or misconduct.

| Length of Service | Minimum Notice Period |
|--|------------------------------|
| Less than 2 years | 4 weeks |
| 2 years or more, but less than 5 years | Six weeks |
| More than 5 years | Eight weeks |

Employees dismissed for business-related reasons like retrenchments and business closures are entitled to compensation if employees are employed under a continuous contract of employment for at least 12 months before the termination. The termination benefits payable are as follows:

| Length of Service | Compensation |
|--|--|
| Less than 2 years | 10 days of salary for every year of employment |
| 2 years or more, but less than 5 years | 15 days of salary for every year of employment |
| More than 5 years | 20 days of salary for every year of employment |

For non-EA employees, the obligation to pay retrenchment benefits would be in accordance with their employment contract, if applicable.

Social Security (SOC SO)

SOC SO provides social security coverage to employees and their dependants through social security schemes such as Employment Injury Insurance Scheme and Invalidity Pension Scheme, and promotes occupational safety and health awareness.

Under the new Employees’ Social Security (Amendment)

Act 2016, effective 1 June 2016, SOCSO contributions are mandatory for all employees regardless of their salary. Prior to this, it was only required for employees earning a monthly salary of less than MYR3,000.

If employees' salaries exceeds MYR4,000 a month, their salary for the purposes of calculation, SOCSO contributions will be deemed to be only MYR4,000 a month.

The current rates of contribution varies from MYR0.10 to MYR19.75 for the employee and MYR0.40 to MYR69.05 for the employer.

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