

BIPO TIMES

Labour Contracts Across ASEAN – Part 2 —Philippines, Singapore, Thailand and Vietnam

ASEAN

- Formally known as the Association of Southeast Asian Nations, the ASEAN is an Association for Regional Cooperation among the countries of Southeast Asia and Indonesia post-colonial rule.
- Comprises 10 member states:
Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam.
- Established to lay the framework of regional dialogue and cooperation, ASEAN has since successfully entered several formal and legally-binding instruments, such as the 1976 Treaty of Amity and Cooperation in Southeast Asia and the 1995 Treaty on the Southeast Asia Nuclear Weapon-Free Zone, maintaining amiable relations amongst member states.

Nation Specific Labour Contracts

1. The Philippines

1.1 The labour law recognizes the following five categories of employment arrangements based on the nature of the employment:

Regular Employment

An employee performs activities that are usually necessary or desirable in the usual business or trade of the employer. However, some employers can require their new employees to undergo probationary employment before they can be qualified for regular employment. Maximum probationary period is 6 months.

Term or Fixed Employment

An employee renders service for a definite period of time and the employment contract must be terminated after such period expires.

Project-based employment

An employee is hired for a specific project or undertaking and the employment duration is specified by the scope of work and/or length of the project. The employment is co-terminus with the project.

Seasonal Employment	Casual Employment	Probationary
When the work to be performed is only for a certain time or season of the year and the employment is only for that duration.	An employee performs work that is not usually necessary or merely incidental to the business. The service is for a definite period of time made known to the employee.	A probationary employee may be dismissed for a just cause or when he fails to qualify as a regular employee in accordance with reasonable standards made known to him at the time he is hired. If he is not informed of these reasonable criteria, he will be considered a regular employee. So, employers should watch out for this requirement. Also, a probationary employee may become regular if he is allowed to work after the probationary period.

1.2 An employment contract is required for all employment types:

- It may be oral or written so long it satisfies the essential requirements and the minimum statutory standards prescribed by the labour code. Any part of an employment contract that does not meet the standard is considered invalid.
- Employment contracts are generally arranged in English, however, an employer must provide a dual language contract in Filipino if an employee is a Philippine national.
- The contract must clearly state the terms of employment suitable to the employee type to avoid confusion or any future disputes.

1.3 Mandatory Government Contributions

- Under the Philippines' social legislation, employers and their employees are required to contribute and that covers sickness, maternity, disability, retirement, deaths and funerals, health insurance and housing loans, specifically :

Mandatory Employee Benefits & Contribution	Coverage
Social Security System (SSS)	Sickness, Maternity, Death, Funeral
National Health Insurance Program (PhilHealth)	Health Insurance
Home Development Mutual Fund (Pag-IBIG Fund)	Housing Loans

- Employers may still provide additional company benefits on top of these mandatory employee benefits such as health insurance, dental benefits, group life and accident insurance are amongst the popular benefit programs given by employers in the Philippines to make it more attractive to employees, which has been a common practice in the country.
- The contributions of the employer and its employees to government are based on the employees' monthly compensation. The employer may not deduct its share of contribution from the employee's monthly contribution. Failure of an employer to make its contribution within the stipulated period may result in monetary liability or even criminal sanctions against the employer.

a. Social Security Contribution Rates

EMPLOYED								
RANGE OF COMPENSATION	MONTHLY SALARY CREDIT	SS CONTRIBUTION			EC CONTRIBUTION	TOATL CONTRIBUTION		
		ER	EE	TOTAL	ER	ER	EE	TOATL
BELOW 2,250	2,000	160	80	240	10	170	80	250
2,250 - 2,749.99	2,500	200	100	300	10	210	100	310
2,750 - 3,249.99	3,000	240	120	360	10	250	120	370
3,250 - 3,749.99	3,500	280	140	420	10	290	140	430
3,750 - 4,249.99	4,000	320	160	480	10	330	160	490
4,250 - 4,749.99	4,500	360	180	540	10	370	180	550
4,750 - 5,249.99	5,000	400	200	600	10	410	200	610
5,250 - 5,749.99	5,500	440	220	660	10	450	220	670
5,750 - 6,249.99	6,000	480	240	720	10	490	240	730
6,250 - 6,749.99	6,500	520	260	780	10	530	260	790
6,750 - 7,249.99	7,000	560	280	840	10	570	280	850
7,250 - 7,749.99	7,500	600	300	900	10	610	300	910
7,750 - 8,249.99	8,000	640	320	960	10	650	320	970
8,250 - 8,749.99	8,500	680	340	1,020	10	690	340	1,030
8,750 - 9,249.99	9,000	720	360	1,080	10	730	360	1,090
9,250 - 9,749.99	9,500	760	380	1,140	10	770	380	1,150
9,750 - 10,249.99	10,000	800	400	1,200	10	810	400	1,210
10,250 - 10,749.99	10,500	840	420	1,260	10	850	420	1,270
10,750 - 11,249.99	11,000	880	440	1,320	10	890	440	1,330

11,250 - 11,749.99	11,500	920	460	1,380	10	930	460	1,390
11,750 - 12,249.99	12,000	960	480	1,440	10	970	480	1,450
12,250 - 12,749.99	12,500	1,000	500	1,500	10	1,010	500	1,510
12,750 - 13,249.99	13,000	1,040	520	1,560	10	1,050	520	1,570
13,250 - 13,749.99	13,500	1,080	540	1,620	10	1,090	540	1,630
13,750 - 14,249.99	14,000	1,120	560	1,680	10	1,130	560	1,690
14,250 - 14,749.99	14,500	1,160	580	1,740	10	1,170	580	1,750
14,750 - 15,249.99	15,000	1,200	600	1,800	30	1,230	600	1,830
15,250 - 15,749.99	15,500	1,240	620	1,860	30	1,270	620	1,890
15,750 - 16,249.99	16,000	1,280	640	1,920	30	1,310	640	1,950
16,250 - 16,749.99	16,500	1,320	660	1,980	30	1,350	660	2,010
16,750 - 17,249.99	17,000	1,360	680	2,040	30	1,390	680	2,070
17,250 - 17,749.99	17,500	1,400	700	2,100	30	1,430	700	2,130
17,750 - 18,249.99	18,000	1,440	720	2,160	30	1,470	720	2,190
18,250 - 18,749.99	18,500	1,480	740	2,220	30	1,510	740	2,250
18,750 - 19,249.99	19,000	1,520	760	2,280	30	1,550	760	2,310
19,250 - 19,749.99	19,500	1,560	780	2,340	30	1,590	780	2,370
19,750 and above	20,000	1,600	800	2,400	30	1,630	800	2,430

b. National Health Insurance Program (Philhealth)

Monthly Basic Salary	Total Monthly Contribution	Employee Share	Employer Share
Php 10,000 and below	Php 300	Php 150	Php 150
Php 10,000.01 to Php 59,999.99	Php 300 to Php 1,799.99	Php 150 to Php 899.99	Php 150 to Php 899.99
Php 60,000 and above	Php 1,800	Php 900	Php 900

c. Home Development Mutual Fund (Pag-ibig Fund)

Monthly Salary	Employee's Contribution Rate	Employer's Contribution Rate	Total
At least Php 1,000 to Php 1,500	1%	2%	3%
Over Php 1,500	2%	2%	4%

- An increase in Pag-IBIG contributions will take effect by January 2021.
- From the current Php 100, the mandatory monthly contribution will increase to Php 150 by January 2021 and further go up to Php 200 by January 2023. The employer's share of the contribution will have the same increase.

1.4 Government Mandated Leave

Type of Leave	Eligibility	Entitlement	Remarks
Maternity Leave	Married Woman	105 Days paid leave	Not cumulative nor convertible to cash.
	Single or Unmarried Woman	120 Days paid leave	
	Optional (Extended Maternity Leave)	30 Days of unpaid leave	
Paternity Leave	Married Male	7 Days	Not cumulative nor convertible to cash.
	Optional (Extended Paternity Leave)	7 Days (allows any female worker who will avail of maternity leave to transfer up to 7 days of paid leave (taken from your 105 or 120 days) to the child's father)	
Solo Parent Leave	Any solo parent or individual who has rendered at least one year of service.	7 Days	- Not cumulative nor convertible to cash. - Employee to submit the solo parent ID.

Special benefit for women :

Type of Leave	Eligibility	Entitlement	Remarks
Magna Carta for Women (Special Leave)	<ul style="list-style-type: none"> Women who undergo surgery caused by gynecological disorders; Provided she has rendered continuous employment service for 6 months. 	2 months	Not cumulative nor convertible to cash.
Leave for Victims of Violence against women and their children	Women employees who are victims.	10 days	Not cumulative nor convertible to cash.

2. Singapore

2.1 The Employment Act is Singapore's main labour source, and provides for the basic terms and working conditions for all types of employees (excluding public servants, domestic workers and seafarers).

2.2 All employees under a "Contract of Service" with an employer are covered, with some exceptions. This includes full-time, part-time, temporary and contract workers.

2.3 From 1 April 2019, the Employment Act was amended to cover all employees. Wrongful dismissal claims will be heard by the Employment Claims Tribunal (ECT) instead of by Singapore's Ministry of Manpower (MOM). These changes include :

- Covering [all employees under the Employment Act](#).
- Covering more non-workmen under Part IV of the Employment Act.
- Wrongful dismissal claims to be heard by ECT.

2.4 The salary cap for employees holding a managerial or executive position has been removed on April 1, 2019, and statutory protections and benefits under EA is now extended to those earning more than S\$4,500 a month. The core provisions of the EA are to be now expanded to include all managers, executives and professionals regardless of their monthly salary.

2.5 Central Provident Fund (CPF) or Social Security Program in Singapore:

The Central Provident Fund (CPF) is Singapore's social security saving scheme that covers healthcare, retirement and housing needs of its workforce.

- It is funded by contributions from both employers and employees. The CPF is mandatory for Singapore citizens or foreigners holding Permanent Resident status and working in Singapore and voluntary for Singapore citizens and PRs who work overseas.
- It is not applicable to foreign employees.
- The contribution rates are set by law and vary depending on the age, wage band, resident status of the employee, that is, whether the employee is a Singaporean citizen or PR, and the number of years for which the employee has had PR status.
- Contribution rates are as follows:

Private Sector/Non-Pensionable Employees (Ministries, Statutory Bodies & Aided Schools)

CPF Contribution Rate (From 1 January 2016) Table for

Singapore Citizens or Singapore Permanent Residents (3rd Year Onwards)

Employee's Age (Years)	Employee's total wages for the calendar month	Total CPF contributions (Employer's & Employee's share)	Employee's share of CPF contributions
55 and below	≤ \$50	Nil	Nil
	> \$50 to \$500	17%(TW)	Nil
	> \$500 to < \$750	17%(TW) + 0.6(TW-\$500)	0.6(TW-\$500)
	≥ \$750	[37%(OW)]* + 37%(AW) * Max. of \$2,220	[20%(OW)]* + 20%(AW) * Max. of \$1,200
Above 55-60	≤ \$50	Nil	Nil
	> \$50 to \$500	13%(TW)	Nil
	> \$500 to < \$750	13%(TW) + 0.39(TW-\$500)	0.39(TW-\$500)
	≥ \$750	[26%(OW)]* + 26%(AW) * Max. of \$1,560	[13%(OW)]* + 13%(AW) * Max. of \$780

Above 60-65	≤ \$50	Nil	Nil
	> \$50 to \$500	9%(TW)	Nil
	> \$500 to < \$750	9%(TW) + 0.225(TW-\$500)	0.225(TW-\$500)
	≥ \$750	[16.5%(OW)]* + 16.5%(AW) * Max. of \$990	[75%(OW)]* + 7.5%(AW) * Max. of \$450
Above 65	≤ \$50	Nil	Nil
	> \$50 to \$500	7.5%(TW)	Nil
	> \$500 to < \$750	7.5%(TW) + 0.15(TW-\$500)	0.39(TW-\$500)
	≥ \$750	[12.5%(OW)]* + 12.5%(AW) * Max. of \$750	[13%(OW)]* + 13%(AW) * Max. of \$780

Notes:

OW: Ordinary Wages(capped at OW Ceiling of S \$6, 000)

AW: Additional Wages

TW: Total Wages = OW+AW

Step to compute CPF contribution (cents should be dropped)

1) Compute the total CPF contribution (rounded to the nearest dollar).An amount of 50 cents should be regarded as an additional dollar.

2) Compute the employee's share of CPF contribution (cents should be dropped).

3) Employer's share = Total contribution- Employee's share

3. Thailand

- 3.1 According to Thailand's Labour Law, all types of employees – whether they are permanent, part-time or under a special employment are protected under the law. The law also states that a contract can be oral or in writing, although the latter is preferred.
- 3.2 Employment contracts in Thailand apply to both full-time and fixed-term employees. In the case of fixed-term contracts, the Labour Protection Act (LPA) is the primary statute governing fixed-term employment contracts. Under the LPA, a fixed-term contract must be in writing when the employment period starts. With fixed-term contracts, these must state they are fixed by stipulating the pre-determined period of employ (i.e. start and end date).
- 3.3 Even if there is no written contract in place, there will be an implied or deemed contract between an employee and employer that defines the relationship.
- 3.4 Termination

In general, employers who wish to terminate a non-fixed contract is required to give a notice period within a minimum period of one payment period, for no more than three months unless otherwise stated in the contract. While the reason for the termination is not required by law (unless termination grounds are under Section 119, i.e. termination without severance pay – where full reasons for the termination must be provided).

Employers can terminate an employee with or without cause but with different obligations.

Advanced termination notice and severance pay is required if an employee is terminated without cause, however, a letter of notice is not required the following acts are committed:

- a. Gross negligence
- b. Serious violation of the company's work rules
- c. Dishonest performance of professional duties
- d. Intentional acts against the employer
- e. Intentional damage to the employer
- f. Absence from work for three consecutive days without sufficient reason
- g. Imprisoned by a final judgment

3.5 Severance Pay

Terminated employees without a cause are entitled to the following severance pay:

Length of service	Less than 120 days	120 days but less than 1 year	1 year but less than 3 years	3 years but less than 6 years	6 years but less than 10 years	10 years but less than 20 years	More than 20 years
Entitled severance pay	No	30 days salary	90 days salary	180 days salary	240 days salary	300 days salary	400 days salary

3.6 Social Security Fund Contributions (SSF)

- On 1 Sept 2020, the Thai Cabinet approved reductions in contributions (employers and insured persons) during the COVID-19 pandemic.
- When the first phase of the temporary assistance measures for the SSF contribution rates ended in May 2020, the original SSF contribution rates were applicable through August 2020. With the new cabinet resolution on 1 Sept 2020 helped to ensure that assistance measures were provided to employers, employees and insured persons at different rates.
- Outlined below are the changes to the required SSF contribution rates in Thailand that have been implemented so far :

Contributor	Monthly Contribution Rate			
	Before COVID-19	March-May 2020 (1st Phase)	June-August 2020	September- November 2020 (2nd Phase)
Employer	5% of wages (max. THB 750)	4% of wages (max. THB 600)	5% of wages (max. THB 750)	2% of wages (max. THB 300)
Employee (section 33)	5% of wages (max. THB 750)	1% (max. THB 150)	5% of wages (max. THB 750)	2% of wages (max. THB 300)
Insured person (section 39)	THB 432 per month	THB 86 per month	THB 432 per month	THB 96 per month

4. Vietnam

4.1 Labour Contracts

- The labour contract must be written in Vietnamese. If one of the parties is a foreigner (this includes foreign-invested enterprises), the contract may be bilingual (Vietnamese, followed by a translation into the foreign language), but the Vietnamese version prevails in case of inconsistencies between the 2 versions.
- Salary paid to Vietnamese employees must be paid in Vietnam Dong (VND)
- Foreign employees are permitted to receive salaries, bonuses and allowances in a foreign currency. Max contract period of 2 years for foreign employees, which can be renewed.

4.2 A labour contract include the following material terms :

- Work to be performed
- Working hours and rest hours
- Wages
- Working place/location
- Duration of contract
- Conditions on occupational safety and hygiene, and
- Social insurance for the employee

4.3 Probationary Period

Job Types	Probationary Period
Jobs requiring professional or technical college qualification	Up to 60 days
Jobs requiring an intermediate level qualification or for trained employees	Up to 30 days
Other jobs that require no training	Up to 6 working days
Seasonal or Temporary Contract	Not required

During the probationary period, the employer must pay a salary that corresponds to at least 85 % of the ordinary salary for the job.

4.4 Termination of Labour Contracts

- Except the dismissal due to disciplinary violations and retirement, all other reasons of contract termination are required to pay the severance pay (if any) to the employees.

- The contract is expired
 - The tasks stated in the contract have been completed
 - Both parties agree to terminate the contract
 - Employee is sentenced to imprisonment or is subject to a Court order
 - Employee or employer is dead, declared missing or incapable of civil acts by the Court
 - Employee unilaterally terminates the contract according to Article 37
 - Employer unilaterally terminates the contract according to Article 38
 - Employee is dismissed due to disciplinary issues according to Article 126
 - Employee is qualified for pension benefits from Social Insurance and reaches the retirement age
- b. The employer is entitled to terminate the contract unilaterally according to Article 38:
- The employee regularly fails to complete the works according to the labor contract;
 - The employer have to reduce the production and vacancies after taking all measures to overcome the consequences from natural disasters, fire or other force majeure;
 - The employee fails to be present at the workplace after the duration as agreed.

4.5 Notice Period

Except the dismissal due to disciplinary violations and retirement, all other reasons of contract termination are required to pay the severance pay (if any) to the employees.

	Type of Contract	Probationary Period
Employer/ Employee	Definite Term Contract	30 days
	Indefinite Term Contract	45 days
	Seasonal & Temporary Contract	3 days

4.6 Statutory Insurance

- a. From Jan 1, 2018, employees who have signed a labour contract for
- One (1) month or more are required to contribute to mandatory social insurance.
 - Three (3) months or more are required to contribute to additional health insurance and unemployment insurance.
- b. Social insurance will be responsible for paying sick leave, maternity leave, paternity leave allowances, pension and disability allowances due to work-related accidents.
- c. Social Security does not pay for the leave and additional medical expenses due to work-related accidents. Work-related accidents are the responsibility of the employer, so the employers must pay the related wages and extra medical expenses incurred.
- d. The health insurance will be responsible for paying employees' general outpatient medical expenses and hospitalization expenses due to illness or injuries. Up to 80% of the medical expenses.
- e. Unemployment insurance will be responsible for paying 60% of the employee's monthly salary after unemployment. For one year of unemployment insurance contributed, the employee will receive one month's salary, and so on.

4.7 Type of Statutory Insurance

Type	Employer Contribution	Employee Contribution	Total	Notes
Social Insurance	17.5%	8%	25.5%	<ul style="list-style-type: none"> • Applies to contracts of 1 month or more; • Max declared wage is 20 months'wage at the general min salary, i.e. VND29,800,000 (USD1,279); • Applied for all employers and Vietnamese employees; • With effective from December 1, 2018, the employer is required to pay 3.5% of social insurance for foreign employees. The scope of social insurance is only cover for sick leave, maternity leave and disability due to work-related accidents. Foreign employees currently do not need to pay the social insurance.

Health Insurance	3%	1.5%	4.5%	<ul style="list-style-type: none"> • Applies to contracts of 3 months or more; • Max declared wage is 20 months'wage at the general min salary, i.e. VND29,800,000(USD 1, 279); • Applied for all employers, Vietnamese and foreign employees;
Unemployment Insurance	1%	1%	2%	<ul style="list-style-type: none"> • Applies to contracts of 3 months or more; • Max declared wage is 20 months'wage at the regional min wage; • Applied for all employers and Vietnamese employees

Conclusion

While unilateral cooperation between Member States of ASEAN in their efforts to unify labour contract requirements do exist, labour laws, labour contract requirements and social security systems across ASEAN vary by country. It is imperative that companies assess the individual nation's requirements when drafting legally binding contracts which outline terms and conditions of the employment contract to avoid legal complications.

Source :

[ICLG – Thailand Employment Laws and Labour Regulations](#)

[Ministry of Manpower, Singapore](#)

[Embassy.com – Employment Contracts in Thailand](#)

[CPF Board, Singapore](#)

[Tilleke & Gibbins – Fixed Term Contracts in Thailand](#)

Around the World with BIPO

Hong Kong | 10 Feb 2021

Ushering the Year of the Ox with style, Team BIPO Hong Kong celebrated its recent win at the HR Magazine Awards 2020 having emerged with a Gold award as “Best HR Vendor (HRIS)”. This coveted award is a testament to BIPO’s innovative and agile solutions, re-affirming BIPO’s key standing among the HR and business communities. Over 10,000 votes were cast to support and recognise the contributions of leading HR solution providers in Hong Kong.



Singapore | 23 Feb 2021

BIPO’s Derick Teo (Director, Enterprise Go-Digital Solutions) shared his perspectives on Workplace Culture and Empowerment in the New Digital Economy in an exclusive interview with Asia’s leading HR publication, HRM Asia. From talent acquisition strategies, a workplace culture that supports critical thinking and empowerment to cost-effective off-premises technology, how do organizations pivot towards an employee first culture to strengthen the employee experience. To read the full article, [click here](#).

About us

At BIPO, we help businesses transform and digitalise, enabling them to thrive and realise their growth ambitions. Around the world, we support over 1,600 clients across 87 countries and regions with a new generation of HR solutions. Our comprehensive suite of service products from our award-winning cloud and mobile-based HR Management System (HRMS), multi-country payroll calculation, overseas landing services, Business Process Outsourcing (BPO) to attendance automation provide clients with a multi-regional, integrated and seamless user experience.

Our global R&D Centres are the foundation of BIPO’s HRMS and Workio platforms, providing cutting-edge, agile, and innovative technology solutions to meet the needs of Industry 4.0. We are also ISO-27001 certified with multi-country compliance, providing clients with the trust and confidence to champion their international growth plans.

Founded in 2004, BIPO is a leading, one-stop global HR service provider with a vast network of offices situated in key gateway cities across Asia: Singapore, Mainland China, Hong Kong, Australia, Cambodia, India, Indonesia, Japan, Macau, Malaysia, Myanmar, Philippines, Taiwan, Thailand and Vietnam. Our APAC Headquarters in Singapore serves as our hub for the region.

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