

September 2022



Amendments to Malaysia's Employment Act & Content Code

Employment (Amendment Act) 2022

Effective 1 January 2023, significant changes will be made to the Employment Act 1955 which any companies seeking to set up a business in Malaysia should take note of. The Employment Act previously applied to those earning RM2000 and below and/or to a specific category of employees. However, some clauses would be inapplicable to those earning more than RM4,000 per month except for blue-collar workers.

Commencing 2023, employers seeking to hire foreign labourers must acquire prior approval from the Director-General instead of just furnishing particulars of employees. Where foreign employees are dismissed, the employer must notify the Director-General within 30 days after the date of termination. Besides, the Employment Act held that forced labour is prohibited, and any employer who commits such offence would be fined an amount not exceeding RM100,000.00 or imprisoned for a term not exceeding two years or both. In regard to working hours, it will be reduced to 45 hours per week (instead of 48 hours currently). If employees are required to work more than 45 hours, overtime rates would apply.

The amendments further protect women's rights by stating that pregnant employees must not be dismissed for illnesses related to pregnancy unless the dismissal is due to misconduct, wilful breach of contract, and closure of the company. Pregnant women would also be able to have 98 days of paid maternity leave (instead of 60 days currently), to aid working women in their post-delivery recovery. Besides that, the Employment Act allows working fathers to take seven consecutive days of paid paternity leave if they have worked for the same employer for at least a year and have notified their employer about their wife's pregnancy at least 30 days before the expected delivery date or as soon as possible after the delivery of the baby. These changes in maternity/paternity will consequently impact employers' profit margins.





Content Code 2022

Apart from the Employment Act, the Content Code (“**Code**”) which applies to all content over the electronic networked medium (e.g. broadcasts on the television, radio, and the internet), has been amended and took effect on 30 May 2022. The Code expressly states that certain online guidelines are now applicable to online service providers, and they cover all content initiated, uploaded, distributed, or made available online in Malaysia. Furthermore, operators of online marketplaces will now have to adhere to the advertising guidelines under the Code. The scope of those who fall within the meaning of “operators of online marketplaces” has also been widened to include authorised individuals, groups, or companies that market goods or services at an online marketplace.

The amendments of the Code have also brought about changes to how goods and services should be advertised. For example, advertisements featuring paid influencers and virtual influencers (computer-generated characters or avatars) to endorse products and services must explicitly disclose this fact so that this marketing technique would not mislead consumers. Advertisements of alcoholic beverages over electronic mediums besides television and radio are permitted, subject to certain regulations and restrictions. Furthermore, to improve consumer protection, further requirements and restrictions regarding advertising claims, testimonials and pricing have been established.

Conclusion

Any entity that seeks to set up a business in Malaysia should be aware of the changes in the legislation as they directly affect the employment and termination of employees and the non-compliance of these rules and regulations may lead to severe penalties.

About the Author



Mohanthalas Narayanasamy

Partner
HMS Law
mohansamy@hmslaw.com.my
+603-2201 8000

Mohanthalas has in-depth experience in advising on corporate mergers and acquisitions, joint ventures, corporate restructuring exercises, raising funds for issuers via initial public offerings, and securities law. He has practised as a solicitor of England and Wales for almost 10 years since 1990 before commencing practice in Malaysia as an attorney and advocate in 1999.

About RHTLaw Asia

RHTLaw Asia offers a different perspective on client experience and commercial thinking. As a leading regional law firm headquartered in Singapore, clients can expect intelligent and innovative solutions from a team that is attuned to the nuances of doing business in Asia. With access to our own ASEAN Plus Group, a network of leading firms comprising over 2,000 lawyers in 16 jurisdictions across Asia and beyond, as well as our membership with The Interlex Group, a global network of leading law firms, we help clients understand the local challenges, navigate the regional complexity to deliver the competitive advantage for their businesses in Asia.

In delivering innovative legal and commercial solutions, it collaborates with ONERHT through entities which are not affiliates, branches or subsidiaries of RHTLaw Asia LLP.

Disclaimer: The ONERHT Universe is an integrated multidisciplinary platform of professional services. Collaborating as ONE, we seek to be a beacon of growth for our clients, stakeholders and communities, empowering them to achieve purposeful growth in Asia and beyond.

RHTLaw Asia LLP is a Singapore law practice registered as a limited liability law partnership in Singapore. A leading full-service firm with industry focus, it has presence in 16 jurisdictions through the ASEAN Plus Group.

In delivering innovative legal and commercial solutions, it collaborates with ONERHT through entities which are not affiliates, branches or subsidiaries of RHTLaw Asia LLP.

Third Party Links: This publication may contain links to articles on external websites. Please note that the Privacy Policies on our websites do not apply to such external websites and the operations you perform on those websites.