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Asia Pacific Employment & Compensation Quarterly Update

Quarter 4: 2021

Introduction

Our Asia Pacific Employment & Compensation Team is pleased to provide you with our fourth quarterly update for 2021 highlighting key employment law changes across the Asia Pacific region.

Please feel free to visit our **Building a New Workforce Reality** and **FutureWorks** sites designed to guide global employers on how to future-proof your workforce and to stay competitive in innovating and revolutionizing your working practices.

Please also see our **Asia Pacific Employment & Compensation webinars** and the **Renew & Reinvent: Own the Future sites** for our integrated solutions to help you to successfully renew and reinvent so you can own the future.

Stay safe,

Michael Michalandos
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AUSTRALIA

Australian Securities and Investments Commission releases open letter regarding compliant whistleblowing policies

IN BRIEF

From 1 July 2019, Australia's whistleblower laws were substantially strengthened by amendments to the Corporations Act 2001 (Cth) ("Corporations Act"). In October 2021, Australia's corporate regulator, the Australian Securities and Investments Commission (ASIC), wrote an open letter to public companies, large proprietary companies and trustees of registrable superannuation entities urging them to review their whistleblowing policies to ensure they are compliant with the Corporations Act. In particular, ASIC has advised that many policies it has reviewed so far do not fulfill the objective of encouraging employees to report issues that they have identified and/or do not accurately present the information required to be included.

Recommended action

Review whistleblowing policies for compliance with the Corporations Act, ASIC's Regulatory Guide 270, and ASIC's "better practice" remarks in its open letter.

21-267MR ASIC calls on Australian CEOs to review whistleblower policies | ASIC - Australian Securities and Investments Commission

Fair Work Commission makes first ruling under new stop sexual harassment regime

IN BRIEF

On 24 December 2021, the Fair Work Commission gave what is believed to be the first ruling under the new regime.

The Fair Work Act 2009 (Cth) was amended by the Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021, extending the stop-bullying jurisdiction so that the Fair Work Commission can make orders to stop sexual harassment at work (previously, these "stop" orders were only available in respect of bullying). Applications for such orders can be made to the Commission with effect from 11 November 2021.

In this case, the Commission found it unnecessary to confirm the details of the allegations and dismissed the application on the basis that there was no risk of ongoing bullying or sexual harassment and therefore the application had no reasonable prospect of success. Relevantly, the businesses no longer operated in the same warehouse complex, the parties had intervention orders that they were not to be within 200 meters of each other, and there was no prospect of the parties being in the same location while at work.

Recommended action

For information. Ensure HR personnel and managers are aware of this new regime.

Religious Discrimination Bill faces committee reviews

IN BRIEF

The Religious Discrimination Bill was introduced to Parliament for debate on 25 November 2021 (but has not yet been assented to or passed into law). The Bill has not yet been voted on (so is still subject to amendments) and faces two separate committee inquiries, to be handed down on 4 February 2022.

The Bill proposes to prohibit both direct and indirect discrimination and subjecting someone to "detriment" on the grounds of "religious beliefs or activity," including in the area of employment. However, it also proposes that it will be lawful for a person to discriminate against another person on the grounds of the other person's religious belief or activity for national security reasons. It has attracted controversy because some have argued that it could allow discrimination against LGBTI students and teachers in religious schools. (The government has now agreed to amend some parts of the Bill to address this.) The Bill also proposes that a "statement of belief" does not constitute discrimination for the purposes of the other Federal and State discrimination acts, provided it does not threaten, intimidate, harass or vilify a person.

Recommended action

Watch for developments.

Unpaid pandemic leave and annual leave changes to Modern Awards

IN BRIEF

On 8 April 2020, the Fair Work Commission varied 99 Modern Awards, adding two weeks of unpaid pandemic leave and the ability to take annual leave at half pay (new Schedule X).

The Commission has extended the entitlement to unpaid pandemic leave under Schedule X, with the provisions now ending in most awards from 30 June 2022. The entitlement to take annual leave at half pay was not extended and ended on 31 December 2021.

Recommended action

Review employee award coverage to determine whether Schedule X applies. If so, ensure payroll and leave systems have the capacity to accommodate any requests from employees entitled to unpaid pandemic leave.

Commencement of new minimum wage in pandemic-affected industries

IN BRIEF

The Fair Work Commission undertook its annual wage review in July 2021, but 21 pandemic-affected Modern Awards (e.g., the Pilots Award and Hospitality Award) had the increase delayed until 1 November 2021.

Recommended action

Review salaries to ensure wages are at least minimum wage (including the federal national minimum wage and those provided for under applicable Modern Awards).

Injured employee entitled to three months' unpaid leave prior to termination

IN BRIEF

The Fair Work Commission ordered compensation for an employee who was prematurely dismissed (after exhausting all of his paid leave and having his workers' compensation payments discontinued by the authority), finding that because the employee was temporarily absent due to an injury, he was entitled to three months' unpaid leave prior to dismissal under the Fair Work Regulations. The Commission reiterated that the employee must be afforded the period of three months to see if the employee's condition could improve.

Recommended action

Ensure compliance with the Fair Work Act and Regulations when dealing with employees who are suffering from illness/ injury.

Airline mask mandate upheld

IN BRIEF

A cabin crew member within the Qantas group failed in her claim that her employer's mask mandate was an unlawful or unreasonable direction in the context of the COVID-19 pandemic. The Fair Work Commission noted that 'had the mandate been implemented without an exemption process in place for those staff who could not, for medical reasons, wear masks while conducting their duties, [the] conclusion may have been different. However, Qantas had a clearly documented exemption process. The Applicant, for example, was offered the reasonable adjustment of wearing a face shield instead.' The Commission also rejected the submission that the employee had been discriminated against because of her inability to wear a mask.

Recommended action

Ensure any COVID-19 safety measures have processes for valid medical exemptions.

New South Wales Parliament passes Modern Slavery Amendment Act 2021 (NSW) ("NSW Amendment Act")

IN BRIEF

The New South Wales Parliament passed the NSW Amendment Act on 19 November 2021. It received Royal Assent on 29 November 2021, and it commenced on 1 January 2022.

A key change is the repeal of modern slavery reporting obligations for New South Wales businesses contained in the Modern Slavery Act 2018 (NSW). This means reporting obligations will only exist under the Commonwealth Modern Slavery Act 2018 (Cth) ("Commonwealth Act"). Notably, the Commonwealth Act does not impose financial penalties for noncompliance.

Recommended action

Assess whether reporting obligations exist under the Commonwealth Act and ensure compliance if required.

Migration Amendment (Protecting Migrant Workers) Bill introduced

IN BRIEF

The government has introduced the Migration Amendment (Protecting Migrant Workers) Bill. Two key aspects include the creation of new offenses against coercing or exerting undue influence or pressure on migrant workers to accept exploitative work arrangements, and the power to prohibit an employer for a period of time from directly or indirectly employing additional temporary migrant workers.

Recommended action

Watch for developments.

Tribunal upholds employer's rejection of ongoing work from home (WFH)

IN BRIEF

An HR advisor requested ongoing WFH to enable her to relocate to New South Wales with her partner. The Queensland Industrial Relations Commission upheld the employer's rejection of the request, finding it was reasonable that the role required both in-person and virtual work. This was notwithstanding that the HR team had been working from home full-time since March 2020 due to limiting the number of employees in the workplace during the early stages of the pandemic. The Tribunal said it was not unreasonable that the employer was now trying to find an "optimal blend of remote and in-person working."

Recommended action

Review flexible working policies and WFH requests in light of case law developments in Australia and current government restrictions regarding attendance at certain workplaces.

Ensure HR teams are prepared to deal with an expected increase in requests for flexible working arrangements made under the Fair Work Act, and are familiar with the employer obligations in the Fair Work Act regarding such requests.

PEOPLE'S REPUBLIC OF CHINA

Supreme People's Court and Ministry of Human Resources and Social Security jointly issue guidance on overtime and working hours issues

IN BRIEF

The Ministry of Human Resources and Social Security and the Supreme People's Court jointly issued 10 typical employment dispute cases centered around the application of legal standards for working hours and overtime pay, in order to deal with the excessive overtime issue that has received much attention lately. We believe that these typical cases will serve as a yardstick for the handling of similar cases by arbitration institutions and courts around the country.

In our last quarterly newsletter (available here), we published an article titled "Supreme People's Court and Ministry of Human Resources and Public Security expressly state that the "996" work system is illegal". That case involved a work system that was expressly defined to be a serious violation of the law.

Please see our Employment Law Newsletter here for other significant and interesting cases on the topic of overtime.

Recommended action

For information.

Government provides administrative guidance for leading platform enterprises in order to protect gig workers

IN BRIEF

In our last quarterly newsletter (available here), we published an article about the Guiding Opinion on Protecting Labor Security Rights and Interests of Gig Workers ("Guiding Opinion"). To promote the effective implementation of the Guiding Opinion, the Ministry of Human Resources and Social Security, the Ministry of Transport, the State Administration for Market Regulation and the All-China Federation of Trade Unions organized an administrative guidance conference for platform enterprises on 10 September 2021. During the conference, the said authorities jointly provided administrative guidance ("Administrative Guidance") to 10 leading platform enterprises, namely Meituan, Ele.me, Didi, Dada, Shansong, Lalamove, Manbang, Daojia Group, Alibaba and Tencent. The four authorities called on these leading Chinese tech companies to take the lead in caring for their gig workers, performing their responsibilities as employers, and fulfilling their social responsibilities.

As part of the Administrative Guidance, the four authorities require the platform enterprises to obtain basic information concerning the gig workers who rely on the platforms for their jobs and in relation to enterprises that provide services with respect to such workers. In addition, the enterprises should ascertain and resolve employment issues and formulate rectification plans in line with the Guiding Opinion. The authorities also put forward the following four specific rectification requirements:

- Gig workers who satisfy the criteria to be considered employees should be offered an employment contract. Those who do not fully satisfy the employment criteria should be offered written agreements ensuring their rights and interests in terms of labor remuneration, rest, labor safety, etc., as required by the Guiding Opinion.
- The cooperation contracts with enterprises that provide worker-related services should be amended and improved, and the platforms should supervise the lawful and compliant use of labor by such enterprises.
- Regulations protecting worker rights and interests should be improved. The platform enterprises should duly take note of the workers' opinions and proposals, provide convenient channels for workers to communicate requests, optimize the platform algorithm rules, and improve the revenue distribution regulations, rest regulations and labor safety and hygiene regulations.

- Worker complaint mechanisms should be established and improved, so as to ensure that worker complaints are responded to in a timely manner and dealt with objectively and fairly.

Recommended action

We recommend that employers of gig workers first ensure that their work arrangements for gig workers comply with the Guiding Opinion and take note of the general guidance provided in the Administrative Guidance, and then keep an eye out for further implementing measures from the government.

Beijing announces top 10 typical employment dispute arbitration cases of 2021

IN BRIEF

On 5 November 2021, the Beijing Bureau of Human Resources and Social Security announced the top 10 typical employment dispute arbitration cases of 2021. These are said to have been carefully selected from the more than 110,000 cases handled last year by employment dispute arbitration institutions around the city, in an effort to provide guidance to employment arbitrators on many of the hot issues in employment disputes. The issues arising in these 10 cases that were most noteworthy for employers are set forth below:

- Company rules may not state that employees who work overtime on a day of rest will be deemed to have waived their right to compensatory leave if they fail to "apply" for such leave. Company rules do not relieve companies from their obligation to pay overtime pay.
- The issue of whether an employment relationship exists between livestreamers and the entities using their services should be determined on the basis of the contract between them and the specific way in which the services are used. It should be a comprehensive determination based on the relevant standards to be applied in recognizing the existence of an employment relationship. An employment relationship should not be automatically determined to exist in any case where an enterprise pays remuneration and an individual does work for the enterprise.
- A company may not evade its obligations under the Labor Law by registering a staff member as a small-scale individual business owner and signing a civil contracting agreement with that individual. The arbitration institution will nevertheless determine whether the person is subordinate to, and employed by, the company by means of a comprehensive assessment of the person, the organization and financial factors.
- The rules of an affiliate, such as an enterprise higher up in the organization chart of a group of enterprises, do not automatically apply to downstream enterprises. Rather, they are binding on the employees of a downstream enterprise only after the carrying out of statutory consultation procedures such as democratic discussion, public display, notification, etc.
- An employee who causes their employer to suffer economic loss due to willful conduct or gross negligence in the course of the employee's work will be liable for compensation. When determining the employee's liability for compensation, the arbitration institution will comprehensively consider factors such as the subordination in the employment relationship, the nature of the employee's work, the salary and benefits, the employer's business interests, the degree to which the parties were at fault, and each party's risk exposure.
- Maternity leave and nursing leave should not count toward annual leave. A female employee who has taken maternity leave and nursing leave remains eligible for paid annual leave.

- If an employee breaks company rules by repeatedly inquiring into a colleague's travel itinerary without a work-related reason to do so, the company may terminate the employee's employment contract by reason of serious breach of discipline. Companies should pay more attention to the protection of personal information and use necessary managerial and technical means to prevent unauthorized access to, and use or leakage of, personal information. They should protect the privacy of their employees and customers which in turn will reduce the enterprises' legal risk exposure.

If a company pays current employees a non-disclosure benefit (paid together with their salary) based on their attendance and agrees with the employees that such benefit will serve as compensation for their maintenance of trade secrets and performance of their non-compete obligation after they leave the company, such non-disclosure benefit should be regarded as part of the salary and not as an advance payment of the mandatory non-compete compensation required for enforcement of a non-compete restriction.

Recommended action

For information. It should be noted that these top 10 precedents are arbitration precedents and chiefly reflect the interpretations and analyses of arbitration institutions. Nonetheless, arbitration awards generally are not final (most employment disputes can be brought to court if either party is dissatisfied with the arbitration ruling), so when companies study particular employment law issues, they should still pay attention to the adjudication practice and views of the judicial authorities.

Company succeeds in liquidated damages claim against social media influencer

IN BRIEF

The fallout between a Suzhou-based social media influencer and the company that hired her has recently made it to court and attracted a great deal of public attention. It also led to further discussion of the gig economy.

Ms. Wang and a Suzhou company signed a Social Media Influencer Agency Agreement in May 2018. The company promoted Ms. Wang as an influencer. In April 2019, the parties entered into another Social Media Influencer Agency Agreement, which stipulated Ms. Wang's performance obligations and details regarding the sharing of profits and other rights and obligations of the parties. In addition, the parties executed an employment contract that set out Ms. Wang's salary and probation period, etc. Ms. Wang later wished to terminate her contractual relationship with the company, but the parties failed to reach an agreement regarding the amount of liquidated damages. The dispute went to the Suzhou Industrial Zone District People's Court at first instance and the Suzhou Intermediate People's Court at second instance.

The courts analyzed the core issues in dispute, one of which was whether the dispute was an employment dispute or a civil dispute. The courts held that the employment contract was a contract between the platform (as the employer) and Ms. Wang (as the employee) that established their employment relationship and specified their rights and obligations. The Social Media Influencer Agency Agreement, on the other hand, was a comprehensive contract concerning Ms. Wang's development in the media performance business, which involved multiple rights and obligations, including agency, brokerage, and copyright issues, etc. The two contracts were interrelated but also independent from each other, and they regulated different legal relationships. The courts determined that the dispute had arisen from the parties' performance of the Social Media Influencer Agency Agreement. The courts held that Ms. Wang had in fact breached the agreement and that the platform had the right to claim liquidated damages from Ms. Wang pursuant to the agreement.

Recommended action

Employers need to follow closely the developments in the gig economy as well as government guidelines in this area (e.g., the "Guiding Opinion on Protecting Labor Security Rights and Interests of Gig Workers" issued by the Ministry of Human Resources and Social Security and seven other authorities in July 2021 (see also our previous article titled "New Measures To Protect the Labor Security Rights and Interests of Gig Workers" here)).

Employers should take time to understand the different engagement models and formulate corresponding internal rules and regulations. An important aspect to note is whether a relationship between the company and the worker is an employment relationship or a civil relationship, as this will affect the validity of provisions on liquidated damages. If it is determined to be an employment relationship, liquidated damages will be applicable only in very limited circumstances permitted by law. If it is determined to be a civil relationship, the provisions on liquidated damages will not be subject to such limitations.

District Court considers whether a settlement agreement between the employer and employee on compensation for work injury is void under the Employees' Compensation Ordinance (Cap. 282) (ECO)

IN BRIEF

On 6 October 2021, the District Court in *Leung Siu Kam v. Employees' Compensation Assistance Fund Board* [2021] HKDC 1177 found that a settlement agreement reached between the employer and employee in relation to compensation for a work injury suffered by the employee was null and void because the settlement sum was lower than the potential minimum compensation that the employee was entitled to.

Facts of the case

The applicant, who was employed as a chef, suffered from an accident while preparing food. He subsequently made an application seeking compensation under the ECO. His application was opposed by the employer and the Employees' Compensation Assistance Fund Board on the basis that the employer and applicant have previously reached a settlement agreement in which the applicant had agreed not to pursue the matter further. The court referred to section 31(1) of the ECO and held that the relevant test is whether the agreed settlement sum is lower than the potential minimum compensation that the applicant was entitled to under the ECO. If so, the settlement agreement would be null and void.

Conclusion

The court found that the potential minimum compensation payable to the applicant was HKD 70,933, which was higher than the settlement sum of HKD 59,980. As a result, the settlement agreement was null and void.

Upon assessment of the quantum of compensation, the court held this to be HKD 134,773 (less the HKD 59,980 already paid to the employee).

Recommended action

For information only. While it is permissible to enter into a settlement agreement with an injured employee, employers should be mindful that the settlement sum should be higher than the potential minimum compensation under the ECO. If not, there is a risk that the agreement may subsequently be held to be null and void and the employer may be liable to pay a higher sum.

CFI overturns Labour Tribunal finding of breach of mutual trust and confidence

IN BRIEF

In the case of *Lam Siu Wai v. Equal Opportunities Commission* [2021] HKCU 4949, the Court of First Instance (CFI) overturned the Labour Tribunal's finding of breach of mutual trust and confidence.

In May 2018, the Equal Opportunities Commission (EOC) terminated Ms. Lam's employment by payment in lieu of three months' notice in accordance with her employment contract. The termination letter included the following wording ("Dismissal Reason"): "Your recent attitude and behavior do not closely match with the requirements of this senior position."

Ms. Lam filed a claim alleging that the Dismissal Reason was false and invalid. She sought common law damages resulting from wrongful termination in breach of the implied duty of mutual trust and confidence. She argued that as a result of the EOC's breach of the implied duty of mutual trust and confidence, she was entitled to claim loss and damages, including loss of her income, loss of the EOC's Mandatory Provident Fund contributions, and loss of her remaining gratuity for the remaining period of the fixed-term contract. Her claim was over HKD 1 million.

The Labour Tribunal decided in favor of Ms. Lam. It found that:

- The EOC had failed to discharge the burden of proving that the Dismissal Reason was a "true and valid" reason for dismissing Ms. Lam.
- A possible reason for the termination was that Ms. Lam had made various complaints against her supervisor.

The Labour Tribunal found that the EOC had breached the implied duty of mutual trust and confidence and awarded Ms. Lam damages of over HKD 1 million. The EOC appealed to the CFI.

The CFI reversed the decision of the Labour Tribunal as follows:

- The implied duty of mutual trust and confidence applies when the employment relationship is ongoing and not in connection with the manner of dismissal.
- The EOC was entitled to terminate the employment contract in accordance with the employment contract. A contractual right to terminate can be exercised unreasonably or even capriciously, so long as it is exercised in accordance with the employment contract. The duty of mutual trust and confidence cannot be applied to water down an employer's right to terminate the employment contract without cause by invoking the notice provisions. In this case, it had been unnecessary for the EOC to state any reason in the letter of termination, and the reason given in the termination letter was not relevant.

Recommended action

For information only. Employers should be cautious about including a reason for dismissal in a notice of termination if termination is one without cause and where there is no legal obligation to do so.

Constitutional Court Decision on Job Creation Law

IN BRIEF

On 25 November 2021, the Constitutional Court proclaimed its Decision No. 91/PUU-XVIII/2020 ("**Decision 91**") in relation to Law No. 11 of 2020 on Job Creation ("**Job Creation Law**"), which is also commonly known as the Omnibus Law.

In Decision 91, the Constitutional Court essentially decided, among other things:

- The formation of the Job Creation Law is unconstitutional and does not have binding legal force to the extent that it is not "reformed" within two years after the proclamation of Decision 91.
- The Job Creation Law remains in effect until it is reformed within the two-year period.
- Legislators must reform the Job Creation Law within the two-year period, otherwise the Job Creation Law will become permanently unconstitutional.
- If the legislators are not able to complete the reformation of the Job Creation Law within the two-year period, all laws, provisions or content of the laws that have been revoked or amended by the Job Creation Law will come back into force.

The Job Creation Law amends, among other things, Law No. 13 of 2003 on Labor ("**Labor Law**"). Following the enactment of the Job Creation Law, the Indonesian government has also issued a number of implementing government regulations, including those related to labor matters. The amended Labor Law and the implementing government regulations have substantially changed certain employment aspects in Indonesia, including termination procedure, termination payment, definite period employment and outsourcing arrangements.

In line with Decision 91, the government has two years to reform the Job Creation Law. If the government fails to reform the Job Creation Law by then, the Labor Law comes back into force. Further, it is yet to be seen whether the reformation of the Job Creation Law will bring any changes to the labor-related parts of the law (and corresponding changes to the implementing regulations). Until then, the amended Labor Law and the implementing regulations related to labor matters remain in effect.

Recommended action

For information only

Amendments to health standards in the workplace

IN BRIEF

With the promulgation of an Ordinance on Health Standards in the Office on 1 December 2021, the following changes were made to industrial hygiene standards, such as in relation to the luminous intensity in offices and cleanliness in workplaces and facilities for rest.

- Luminous intensity
  The categories for luminous intensity based on type of work were reduced to two and the standards for each were raised:

Type of work	Standard luxes
Standard office work	300 luxes or more
Incidental office work	150 luxes or more

- Lavatory: The original principle of having separate lavatories for men and women should be maintained, but unisex independent lavatories surrounded by walls on all sides should be sufficient in unavoidable cases in workplaces where 10 or fewer workers are working at any one time. However, existing separate lavatories for men and women should not be abolished.
- Facilities for shower: When shower facilities are provided, privacy must be considered so that everyone can use them safely.
- Facilities for rest: It is desirable to consider the size and facilities according to the actual conditions of the workplace.
- Resting room: Consideration should be given to both privacy and safety, depending on the installation location, such as blocking views from entrances and passageways, access restrictions, etc.
- Environmental control of office rooms: It was clarified that not only detector tubes but also electronic devices with equivalent or better performance are acceptable as instruments for measuring carbon monoxide and carbon dioxide concentrations.
- Articles contained in a first-aid kit: The provisions on specific items that must be uniformly provided in workplaces have been deleted.

Recommended action

Employers should be aware of the changes and take any necessary action to meet the revised standards.

Minimum EPF contributions lowered from 11% to 9% to remain until June 2022

IN BRIEF

By way of background, pursuant to Section 52 of the Employees Provident Fund Act 1991 ("**EPF Act**"), every employee and every employer of a person who is an employee within the meaning of the EPF Act shall be liable to pay monthly contributions on the amount of wages at the rate respectively set out in the Third Schedule of the EPF Act. Previously, under the passing of the budget for 2021, the Parliament agreed to reduce the employee's share of the statutory contribution rate from 11% to 9% for the months of January 2021 up to December 2021. Pursuant to the passing of the budget for 2022 on 18 November 2021, the government has decided to extend this lowering for a further six months, ending on June 2022.

It is also important to note that this new statutory contribution rate is only applicable to members below 60 years old who are liable for contribution. For members aged 60 years old and above, the statutory contribution rate for employees remains unchanged. Members who wish to maintain the contribution rate for employees at 11% may fill in the Form KWSP 17A (Special 2021), which is available on the EPF website.

Recommended action

Employers to note.

Employment Act (Amendment) Bill 2021

IN BRIEF

By way of background, the Employment Act 1955 came into force on 1 June 1957, and since then, there have been several amendments made, the last being in 2012 through the Employment (Amendment) Act 2012 (Act A1419). Recently, Minister of Human Resources Datuk Seri M. Saravanan tabled the Employment Act (Amendment) Bill 2021 ("**Bill**") for its first reading on 25 October 2021. According to the Explanatory Statement of the act, the proposed amendments are intended to align the Employment Act 1955 with the standards and practices required by the Trans-Pacific Partnership Agreement, the Malaysia-United States Labour Consistency Plan and the International Labour Organization.

There are altogether 46 sections in the Bill. Listed below are several key changes that are pertinent to employers:

a) Enhanced paid maternity leave entitlement

- Clause 12 of the Bill increases paid maternity leave from 60 days to 90 days

b) Restriction on termination of pregnant employee

- The newly introduced Section 41A prohibits employers from dismissing an employee who is "pregnant or is suffering from an illness arising out of her pregnancy."

- Employers are only allowed to dismiss a pregnant employee on the grounds of:
  i. Willful breach of contract
  ii. Misconduct
  iii. Business closure
- The employer bears the burden of proof in proving that the termination is not on the ground of her pregnancy or on the ground of illness arising out of her pregnancy. Note that poor performance is not a ground for termination.

c) Paternity leave

- The newly introduced Section 60FA provides that a married male employee is entitled to three consecutive days of paid paternity leave in respect of each confinement, up to a maximum of five confinements (regardless of the number of spouses).

d) Application for flexible working arrangements

- The newly introduced Section 60P allows employees to submit a written application to their employer for a flexible working arrangement to vary the hours of work, days of work or place of work.
- The employer has 60 days upon receipt of the application for flexible working arrangement to approve or refuse the same. In case of refusal, the employer must state their reasons.

e) New power of the director general of labour (DGL) to decide on employment discrimination dispute

- The newly introduced Section 69F extends the power of the DGL to inquire into and decide on any dispute relating to discrimination in employment.
- Failure to comply with the DGL's order constitutes an offense and can result in a fine not exceeding MYR 50,000 and for offenses that are continuing, a daily fine of up to MYR 1,000 for each day the offense continues.

f) Reduction in maximum weekly working hours and enhancement of sick leave

- The Bill proposes to amend the existing Section 60A of the principal act to reduce the maximum weekly working hours from 48 hours to 45 hours.
- The Bill seeks to enhance sick leave benefits by removing the proviso that the sick leave entitlement is inclusive of a 60-day period of hospitalization. Under the proposed provision, the employee will be entitled to a 60-day sick leave where hospitalization is necessary in addition to their regular sick leave credit.

g) Posting notice in the workplace to raise awareness on sexual harassment

- The newly introduced Section 81H requires the employer to exhibit conspicuously at the place of employment a notice to raise awareness on sexual harassment.

h) Formula for calculating wages where an employee has not completed a month's work

- The newly introduced Section 18A provides a formula to calculate wages where an employee has not worked a full month of service, which is as follows:

$$\frac{\text{Monthly wages}}{\text{Number of days of the particular wage period}} \times \text{Number of days eligible in the wage period}$$

i) Requirement to obtain prior approval from the DGL to hire foreign employees

- The newly introduced Section 60K provides that a prior approval of the DGL must be obtained before hiring foreign employees as an additional step to the previous position, which only requires employers to provide the foreign employees' particulars.
- Furthermore, Section 60KA of the act provides that in the event of termination of the foreign employee, the employer must inform the DGL within 30 days (where the foreign employee was terminated by the employer) and 14 days (where the foreign employee terminates the agreement).
- Failure to comply with this requirement constitutes an offense punishable with a fine of up to MYR 100,000 and/or imprisonment of up to five years.

j) Presumption of employment

- The newly introduced Section 101C provides that a person is presumed to be an "employee" in the absence of a written contract of service if:
  i. The manner of his work is subject to the control or direction of another person;
  ii. His hours of work are subject to the control or direction of another person;
  iii. He is provided with tools, materials or equipment by another person to execute work;
  iv. His work constitutes an integral part of another person's business;
  v. His work is performed solely for the benefit of another person; or
  vi. Payment is made to him in return for work done by him at regular intervals and such payment constitutes the majority of his income.
- Likewise, this presumption also applies to an "employer" in the absence of a written contract of service if the above criteria are met, except when an employer is presumed to be an employer regardless of whether he makes payment to another person in return for work done for him.

Other changes proposed in the Bill include:

a) Application of the Employment Act 1955

- At present, the Employment Act 1955 governs "employees" earning up to MYR 2,000 a month as defined in the First Schedule of the act unless it is specifically stated in the legislation that the provision applies to all employees irrespective of their wages.
- However, the Employment (Amendment) Bill 2021 proposes the deletion of Section 44A, which extends the application of Part IX on maternity protection and maternity leave to all female employees irrespective of their wages, and Section 88G, which extends the application of Part XVA regarding sexual harassment to all employees.

The Bill will have to go through the second reading and third reading in the lower house of the Parliament (Dewan Rakyat) and then sent to the upper house of the Parliament (Dewan Negara) where three readings will also take place. After the Bill is passed by the Parliament and the royal assent is granted, the Bill will become an act.

Recommended action

Employers to keep track of the developments of the Bill.

Re-employment of foreign workers with temporary working visit pass (TWVP) on a year-by-year basis through the Rehiring Program

IN BRIEF

By way of background, the Rehiring Program is an initiative by the government that was first introduced in 2016. The aim of the Rehiring Program is to provide opportunities to illegal and undocumented foreign immigrants who are working in Malaysia to be given a valid TWVP. Under the Rehiring Program, the Immigration Department of Malaysia (IDM) has allowed employers to hire foreign workers with a TWVP for a period up to five years. Since the Rehiring Program started in 2016, the TWVP would expire in phases from 2021 until 2024. On 15 December 2021, IDM announced that employers in Malaysia are allowed to re-employ foreign workers with TWVP and apply for extension of the TWVP through the Rehiring Program on a year-by-year basis, up to a maximum of five years, effective from 20 December 2021. According to the IDM's Director General, Khairul Dzaimee, this initiative is to ensure that employers will not suffer shortage of staff especially in the 3D (dirty, difficult and dangerous) sector.

The Rehiring Program is only open to foreign workers from the following countries:

a) Bangladesh
b) Philippines
c) India
d) Indonesia
e) Kazakhstan
f) Cambodia
g) Laos
h) Myanmar
i) Nepal
j) Pakistan
k) Sri Lanka
l) Thailand
m) Turkmenistan
n) Uzbekistan

o) Vietnam

To qualify for the Rehiring Program, employers must ensure that:

a) The employer and the employee do not breach any conditions of any passes issued during the employment under the Rehiring Program;

b) Employees who have been blacklisted are not qualified to apply for an extension;

c) Employees are not allowed to change employers or sector, except through special approval by the Ministry of Home Affairs;

d) Only the lawful employer and employer's representative are allowed to make an application for extension;

e) The extension of the TWVP is only allowed through online application, which is through ePLKS website or MyEg website; and

f) Any consideration for extension of TWVP is subject to the procedure for employment of foreign workers in force.

Recommended action

Employers to take note of the expiry date of the TWVP and make applications for extension if necessary.

PHILIPPINES

Support for workers in the informal economy under the Safe Spaces Act

IN BRIEF

On 22 November 2021, the Department of Labor and Employment (DOLE) issued a Department Order providing the appropriate mechanisms and interventions, including redress mechanisms, in cases of gender-based sexual harassment in the workplace. The guidelines apply to (a) domestic workers (i.e., househelpers), (b) those employed in the informal economy and (c) those employed in establishments with 10 or fewer employees.

The Department Order covers, among others:

- Duties of employers of domestic workers, including private employment agencies
- Filing and assistance on gender-based sexual harassment complaints of workers in the informal economy
- Duties of employers in establishments with 10 or fewer employees
- Filing of gender-based sexual harassment complaints before a government office

Recommended action

For information only.

Covered establishments must comply with the guidelines issued by DOLE.

Required training of occupational safety and health personnel in stand-alone micro healthcare and related facilities

IN BRIEF

On 8 November 2021, DOLE issued a Labor Advisory prescribing the trainings that must be undertaken by the designated safety and health personnel of stand-alone micro healthcare and related facilities, which refer to healthcare facilities that do not have more than nine workers and are operating independently from small, medium and large healthcare and related facilities. The advisory also reminds stand-alone micro healthcare and related facilities to implement the necessary Occupational Safety and Health programs.

Recommended action

For information only.

Covered establishments must comply with the guidelines issued by DOLE.

Online filing of social security and employees' compensation sickness-related forms and applications

IN BRIEF

On 22 December 2021, the Social Security System (SSS) issued a circular providing the guidelines on online filing of Social Security (SS) and Employees' Compensation (EC) sickness notification, sickness benefit application and sickness benefit reimbursement application through the my.sss portal effective on 27 December 2021. The circular lays down rules on prerequisites for online filing, SS policies, and transition and implementation dates.

Recommended action

For information only.

Employers must comply with their obligations under the SSS circular.

Enhanced online filing of retirement benefit claim

IN BRIEF

On 28 December 2021, the SSS issued a circular to streamline, simplify and automate retirement benefit claim processes through the my.sss portal. The circular lays down rules on prerequisites for online filing, SSS policies on online filing of retirement benefit claims, and online certification of the employer.

Recommended action

For information only.

Employers must comply with their obligations under the SSS circular.

SINGAPORE

Revised CPF contribution rates from 1 January 2022

IN BRIEF

The Central Provident Fund (CPF) contribution rates for employees above the age of 55 to 70 are increased with effect on 1 January 2022. The new rates for these employees are below:

	Old CPF rate (% of wage)	New CPF rate (% of wage)
Above 55 to 60	▪ Employer contribution: 13% ▪ Employee contribution: 13%	▪ Employer contribution: 14% ▪ Employee contribution: 14%
Above 60 to 65	▪ Employer contribution: 9% ▪ Employee contribution: 7.5%	▪ Employer contribution: 10% ▪ Employee contribution: 8.5%
Above 65 to 70	▪ Employer contribution: 7.5% ▪ Employee contribution: 5%	▪ Employer contribution: 8% ▪ Employee contribution: 6%

There is no change to the CPF contribution rates for employees aged 55 years old and below.

Recommended action

Employers must make CPF contributions in line with the new CPF rates.

Vaccination as a condition for entry into workplace

IN BRIEF

The Ministry of Manpower's latest Advisory on COVID-19 Vaccination at the Workplace states that from 1 January 2022, only (i) fully vaccinated employees, (ii) employees certified to be medically ineligible for vaccination, (iii) unvaccinated and medically eligible employees with valid negative pre-event testing (PET) result and (iv) employees who have recovered from COVID-19 within 180 days can return to the workplace. However, from 15 January 2022, the concession for unvaccinated and **medically eligible** employees to perform PET in lieu of vaccination will be removed. Accordingly, employers can make vaccination a condition for office attendance.

Where an employee is medically eligible for vaccination and does not want to be vaccinated, it is the employer's prerogative as to whether it would allow the employee to continue working from home. Where the medically eligible and unvaccinated employee is not able to work from home, the employer could:

- Redeploy such employees to a job that can be done from home with remuneration commensurate with the responsibilities of such alternative job, subject to such alternative jobs being available; or
- Place such employees on no-pay leave or as a last resort, terminate their employment with notice in accordance with the terms of their employment agreement. If termination of employment is due to the employees' inability to be at the workplace to perform the work per their contracts, the termination of employment would **not** be considered wrongful dismissal.

Recommended action

Employers should take note of the new requirements and inform unvaccinated and medically eligible employees that they are not to return to the workplace.

Updated Safe Management Measures

IN BRIEF

From 1 January 2022, up to 50% of employees who are able to work from home can be at the workplace, subject to compliance with the rest of the Safe Management Measures and the Ministry of Manpower's Advisory on COVID-19 Vaccination at the Workplace. The remainder of the employees who are able to work from home must continue to work from home.

Recommended action

Employers should take note of the new requirement.

Amendment to Regulations on Aid for Legal Services and Living Expenses in relation to Labor-Management Disputes

IN BRIEF

The Regulations on Aid for Legal Services and Living Expenses in relation to Labor-Management Disputes were amended with effect from 30 December 2021, in order to provide assistance to more economically disadvantaged workers by making it easier for them to bring employment law claims. The main points of the amendments are as follows:

1. Eligibility criteria lowered to apply to employees with a monthly income of no more than NTD 70,000

   To assist low-paid workers in defending their labor rights through legal procedures, the threshold for eligibility for legal aid assistance has been amended to cover employees with a monthly income of no more than NTD 70,000.

2. Amendments to avoid duplication of subsidies

   In order to avoid duplication of subsidies, in addition to the existing requirement that applicants must not have received the same assistance from a government agency, an applicant must also not have received any such assistance from any private organization entrusted by a government agency. The affidavit to be submitted when applying for assistance has been amended accordingly.

Recommended action

For information only, but these amendments mean that there may be an increase in litigation for employers.

New rules on parental leave

IN BRIEF

1. Application requirements and periods of unpaid parental leave

   Employees who have worked for six months can apply to their employers for a maximum of two years' unpaid parental leave before their children reach the age of 3.

   i. When an employee applies for unpaid parental leave, the employee shall file an application in writing to their employer 10 days in advance.
   (This provision came into effect on 1 July 2021.)

   ii. In principle, the duration of unpaid parental leave shall not be less than six months each time. However, each employee may apply for short parental leave, which is no less than 30 days (up to a maximum of two times).
   (This provision came into effect on 1 July 2021.)

   iii. Parents may apply for unpaid parental leave and allowances simultaneously.
   (The Executive Yuan has not yet specified the effective date of this provision.)

2. Increase of parental leave allowance to 80% of previous average salary

   Previously, workers with at least one year of employment insurance could apply to the Bureau of Labour Insurance for a subsidy of 60% of their previous average monthly salary for a maximum of six months while on unpaid parental leave. The recent amendment increases the rate to 80%.
   (This provision came into effect on 1 July 2021.)

3. Increased duration of paid leave for antenatal care and delivery

   i. Paid maternity leave for female workers for antenatal care and delivery has been increased from five days to seven days. Additionally, spouses may use paternity leave for prenatal visits.
   (The Executive Yuan has not yet specified the effective date of this provision.)

   ii. Employers can apply to the Bureau of Labour Insurance for a maternity/paternity leave subsidy if an employee has taken more than five days of maternity/paternity leave.
   (This provision came into effect on 1 July 2021.)

4. Workers can negotiate with employers to adjust and reduce working hours regardless of the company's size

   Originally, Article 19 of the Gender Equality in Employment Act stipulated that only workers in companies with more than 30 employees could negotiate with their employers to adjust or reduce their working hours by one hour per day if they needed to take care of a child under the age of 3. The recent amendment has removed the restriction, such that the same provision applies to workers in companies with less than 30 employees.
   (The Executive Yuan has not yet specified the effective date of this provision.)

Recommended action

Employers to take note of these amendments and ensure compliance.

THAILAND

Government subsidy to help employee costs for employers

IN BRIEF

On 19 October 2021, the Cabinet approved a measure to alleviate the impact of the COVID-19 situation on small and medium-sized employers by providing a monthly cash subsidy to help with their employee costs in return for them retaining their employees.

A summary of the measure is below:

- Qualifications: To qualify for the subsidy, an employer must be registered with the Social Security Fund and have no more than 200 employees who have also registered with the Social Security Fund as of 16 October 2021.
- Application channel: Any interested and qualified employer was able to submit an online application along with the required documents through the Department of Employment from 20 October 2021 to 20 November 2021.
- Financial assistance: If the application was approved, the government paid THB 3,000 per active Thai employee as of 16 November 2021 (capped at 200 employees) ("Baseline Employees") to the employer's designated bank account each month for three months from November 2021 to January 2022.

  If the employer subsequently hired more employees than its Baseline Employees, the employer may also be eligible for an additional subsidy for two months from December 2021 to January 2022 provided that they satisfied relevant conditions and requirements.

  - Main conditions: The subsidized employer was required to continue to retain at least 95% of their Baseline Employees throughout the duration of the subsidy. Failure to do so would render the employer ineligible for the subsidy in such months.

  The subsidized employer was also required to continue to comply with all of the normal requirements, e.g., paying monthly contributions to the Social Security Fund through e-Services, complying with minimum wages.

  Over 18,000 employers applied for the subsidy program covering more than 390,000 employees.

Recommended action

For information only.

Riding the waves: How the workplace might look like post-pandemic

IN BRIEF

With the COVID-19 restrictions beginning to ease in Thailand, along with many parts of the world, the question that comes to mind for most of us, and particularly for employers, is whether it is now the right time to return to the workplace.

The impact that the pandemic has had on the future of workplaces cannot be underestimated, from health and safety to an increase in agile and hybrid work, and transformation focusing on AI and technology. Now may be the right time for employers to take time to consider the key issues in order to prepare for a post-pandemic work environment.

- Vaccinations: At this stage, it would appear that the rollout of vaccines will play a key role in any successful reopening of the economy and making workplaces safe. However, this is not as simple as it sounds. There are some important labor and employment law considerations that need be taken into account as far as employers are concerned. Central to this is the question of whether it is legal to compel employees to be vaccinated before returning to work.
- Ensuring a safe workplace: COVID-19 may be here to stay. Employers will need to ensure they fulfill various legal obligations to make the workplace safe before reopening.
- Hybrid and agile working trends: With remote and hybrid working becoming the norm during the pandemic, it seems these trends will continue to rise. In regard to the employer-employee relationship, these trends trigger a number of legal compliance issues and risks for employers to navigate, from employee compensation and benefits to immigration, corporate tax and data privacy, to name but a few.
- Employee well-being: The obligations of employers to arrange and maintain safe and hygienic working conditions and work environment for their employees, and to support and promote the work operations of their employees in order to protect their health, safety and welfare remain true under remote working arrangements.
- Inclusiveness and diversity in the workplace: In this regard, though it is less clear in Thailand at the moment, employers can no longer ignore these issues, particularly as most organizations are incorporating environmental, social and corporate governance (ESG) into their corporate strategy, a trend strengthened during the pandemic.

Recommended action

Carefully consider issues before implementation.

VIETNAM

New decree detailing law on Vietnamese workers working abroad under labor contracts

IN BRIEF

On 10 December 2021, the government issued Decree No. 112/2021/ND-CP ("Decree No. 112"), which regulates certain issues.

Generally, companies providing services to bring Vietnamese workers overseas under contracts will need to satisfy several conditions relating to the degree and experience of the companies' legal representative, minimum capital requirements, escrows, premises and staff. Decree No. 112 gives further guidance on these issues, including the following:

- Conditions and procedures for granting licenses to companies providing services to bring Vietnamese workers overseas under contracts, and specific conditions for certain jobs and for bringing workers to certain foreign countries
- Amount, management and use of escrows of companies providing services for bringing Vietnamese employees to work overseas and deposit of Vietnamese employees

The decree also provides conditions and procedures for registering labor contracts online after employees leave Vietnam.

Decree No. 112 took effect on 1 January 2022.

Recommended action

For information only.

On a related note, enterprises that plan to bring Vietnamese employees to work overseas (i.e., under vocational training and improvement contracts) should review the law on Vietnamese employees working abroad under labor contracts.

Guidance on providing rooms for expressing and storing breast milk at work

IN BRIEF

- On 9 November 2021, the Ministry of Health issued Decision No. 5175/QD-BYT approving the guidance on providing rooms for expressing and storing breast milk at work ("Decision No. 5175").
- The number of such rooms will be based on the number of female employees. Specifically:

- Enterprises with less than 100 female employees are encouraged to have at least one room to express and store breast milk.
- Enterprises with 100 to less than 500 female employees: are encouraged to have at least two rooms for expressing and storing breast milk.
- Enterprises with 500 to less than 1,000 female employees: are encouraged to have at least three rooms to express and store breast milk.
- Enterprises with more than 1,000 female employees are required to have at least four rooms for expressing and storing breast milk, of which an average of 300 female workers per room is guaranteed.

- Rooms for expressing and storing breast milk are categorized as either basic or complete. Depending on capacity and practical conditions, an establishment with female employees should arrange the relevant rooms at the most suitable level.

Recommended action

Enterprises with more than 1,000 female employees must comply with these new rules.

Other enterprises: for information only.

Adjusted regulations regarding working hours and rest hours for employees doing seasonal production jobs or processing goods under orders

IN BRIEF

- On 15 December 2021, the Ministry of Labor, Invalids and Social Affairs issued Circular No. 18/2021/TT-BLDTBXH prescribing working time and rest time for employees doing seasonal production jobs or processing goods under orders ("Circular No. 18").
- Circular No. 18 applies to employees working under labor contracts with a term of between 12 months and 36 months or indefinite-term labor contracts for the following jobs:
  - Seasonal production jobs in the fields of agriculture, forestry, fishery, or salt production that require instant harvesting or instant processing after harvest without delay
  - Processing of goods under orders, depending on the time the goods owner makes the request
- The number of working hours is now regulated generally, without providing for a separate regulation for employees who perform hazardous and dangerous occupations/jobs or extremely hazardous and dangerous occupations/jobs. Specifically, the total number of standard working hours and extra working hours in a day must not exceed 12 hours.
- Also notably, according to this new circular, employees who work on a holiday can no longer take another day-off to compensate for holiday work.

Circular No. 18 will take effect on 1 February 2022.

Recommended action

Employers employing such relevant employees to note.

Amendment on policies regarding support for employees and employers facing difficulties due to the COVID-19 pandemic

IN BRIEF

- On 8 October 2021, the government issued Resolution No. 126/NQ-CP amending and supplementing its Resolution No. 68/NQ-CP dated 1 July 2021 on policies to support employees and employers facing difficulties due to the COVID-19 pandemic ("Resolution No. 126"). The notable amendments are as follows:
  - Resolution No. 126 removes the provision that employers must have no bad debts in credit institutions and foreign bank branches at the time of request for loans as a condition to receive employer support for out-of-work employees.
  - Employers and their employees may temporarily suspend contributions to the retirement and survivorship allowance fund for six months from the time they submit their applications in cases where such employers:
    - have fully paid social insurance premiums; or
    - are temporarily suspending contributions to the retirement and survivorship allowance fund until the end of January 2021 and
    - are affected by the COVID-19 pandemic, resulting in a reduction of 10% or more of employees participating in the social insurance in comparison to January 2021.
- On 6 November 2021, Decision No. 33/2021/QD-TTg amending some articles of the prime minister's Decision No. 23/2021/QD-TTg dated 7 July 2021 regarding the implementation of certain policies to support employees and employers facing difficulties due to the COVID-19 pandemic was issued ("Decision No. 33").

  Notably, Decision No. 33 has expanded the categories of employees who have had a temporary suspension of their labor contracts due to COVID-19 and are eligible for support. Specifically, support will be given to any employee in situations where the implementation of their labor contract has been temporarily suspended or where the employee is placed on unpaid leave while working under an employment contract due to one of the following reasons:
  - The employee is undergoing treatment for COVID-19, staying in quarantine, staying in a lockdown area, or unable to go to work due to the request of the competent state agency to prevent and control COVID-19.
  - The employer's operations are completely or partially suspended at the request of a competent state agency for the prevention and control of the COVID-19.
  - The employer's head office, branch, representative office or production and business location is located in an area where anti-COVID measures are being implemented according to Directive No. 16/CT-TTg dated 31 March 2020 of the prime minister.
  - The employer is subject to prohibition/suspension/restrictions/conditions according to the government's Resolution No. 128/NQ-CP dated 11 October 2021 on Interim Regulations on "safe and flexible adaptation and effective control over the COVID-19 pandemic" (as mentioned above).
  - The employer's production and working activities are reorganized in order to prevent and control the spread of COVID-19.

Recommended action

For information only.

New guidance on requirement to conduct COVID-19 testing for employees

IN BRIEF

On 8 November 2021, the Ministry of Health issued Official Letter No. 9472/BYT-MT on the implementation of the government's Resolution No. 128/NQ-CP ("Official Letter No. 9472"). According to Official Letter No. 9472, business facilities are required to conduct COVID-19 testing for employees as follows:

- Testing for employees who have any of the COVID-19 symptoms, i.e., fever, cough, fatigue, sore throat, loss of taste or smell, difficulty breathing or epidemiological factors;
- Testing for employees when employees come back to work; and
- Random testing for employees at high risk of COVID-19 infection.

Recommended action

Enterprises should review Official Letter No. 9472 to ensure compliance with requirements for COVID-19 prevention at the workplace.

Guidance on trade unions' participation in dialogue and implementation of grassroots democracy policy at the workplace

IN BRIEF

Guidance No. 41/HD-TLD of the Vietnam General Confederation of Labor to trade unions on trade union participation in dialogue and implementation of grassroots democracy policy at the workplace was issued on 11 November 2021 ("Guidance No. 41"). Guidance No. 41 provides further guidance for trade unions on the following issues:

- Formulation of grassroots democracy policy at the workplace
- Participation in dialogues at the workplace
- Participation in organizing employee conferences
- Forms used to implement a grassroots democracy policy

Recommended action

Enterprises where trade unions have been established should review Guidance No. 41 to understand the expectation of trade unions on this issue.

Draft law on implementation of democracy at the grassroots level

IN BRIEF

A draft law has been developed to surmount limitations of Decree No. 145/2020/ND-CP regarding the implementation of democracy at the grassroots level. In particular, this draft law:

- Provides specific regulations on rights and obligations of employees in the implementation of democracy at the grassroots level
- Supplements regulations on prohibited acts, supervision to ensure implementation of democracy at the grassroots level, handling of violations on implementation of democracy at the grassroots level, regulations on dialogue at the enterprise, and detailed regulations on employees' conferences
- Supplements regulations that employees are entitled to participate in the decision of social/charity funds' contribution level at the enterprise
- Provides specific regulations on the modes of employees' decisions
- Supplements information that employees are entitled to examine and supervise
- Provides specific regulations on methods for employee examination and supervision
- Provides specific regulations on the responsibilities of employers in implementing democracy at an enterprise

Recommended action

Enterprises should review the draft law for familiarity as well as keep an eye on the issuance of this law in the future to ensure full compliance.

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