



MAYER | BROWN

Asia Employment Law: 2023 Mid-Year Review

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Introduction

Asia's legal and human resources advisors are often required to function across multiple jurisdictions. Staying on top of employment-related legal developments is important but can be challenging.

To help keep you up to date, Mayer Brown has produced the **Asia Employment Law: Mid-Year Review**, an e-publication covering 14 jurisdictions in Asia.

In this thirty-seventh edition, we flag and comment on employment law developments during the first half of 2023 and highlight some of the major legislative, consultative, policy and case law changes to look out for in the second half of 2023.

This publication is a result of ongoing cross-border collaboration between 10 law firms across Asia with whose lawyers Mayer Brown has had the pleasure of working with closely for many years. For a list of contributing lawyers and law firms, please see the contacts page.

We hope you find this edition useful.

With best regards,



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Foreshadowed changes to legislation: Defining casuals, same job same pay, criminalising wage theft, employee-like forms of labour

The Labor Government has proposed a series of significant changes to the Fair Work Act (**FW Act**). A high-level summary of four of the key proposed changes is set out below.

Definition of 'Casual' Employees

The current definition of 'casual employee' focuses on whether there is no 'firm advance commitment to continuing and indefinite work according to an agreed pattern of work for the person'. The FW Act expressly states that the subsequent conduct of either party is not relevant to determining whether the employee remains a casual. It is possible to convert from casual to permanent employment after 12 months in certain circumstances.

The Labor Government has proposed inserting an 'objective' definition into the FW Act to determine whether an employee is a casual. This definition would include consideration of post-contractual conduct, which as discussed above, is currently excluded from the test. This proposal is intended to restore what Labor sees as the 'conventional' meaning of a casual, being an employee working irregular and unpredictable hours.

Same Job Same Pay

The Government is proposing that labour hire workers receive the 'same pay' for performing the 'same job' as directly engaged employees. The proposal entails amending the FW Act to introduce an entitlement to the same pay via an obligation on labour hire providers and host employers to take reasonable steps to ensure that the 'direct entitlement' is paid to the labour hire worker.

The stated rationale behind the proposed amendments is to prevent employers from using labour hire arrangements to deliberately undermine the framework of enforceable minimum wages and conditions established by the FW Act.

It remains unclear how the Government proposes to identify both the 'same job' and the 'same pay'. However, suggestions have focused on, for example, duties that align to a classification or job in an applicable host employer's enterprise agreement (same job) and the 'full rate of pay' as defined in the FW Act (same pay).

Criminalising Wage Theft

The Government has proposed the introduction of a federal criminal offence for wage theft. It is proposed to apply to all sources of entitlements (legislation, awards, enterprise agreements, contracts etc) and all monetary entitlements.

It is unclear whether the offence will be confined to deliberate underpayments or also extended to reckless conduct, where the employer is aware of a substantial risk of underpayments but fails to take ameliorative action. The offence is not intended to apply to honest mistakes.

How these reforms will interact with the state wage theft criminalisation offences in Victoria and Queensland is also unknown.

Employee-Like Forms of Labour

The Government is seeking to empower the Fair Work Commission (**FWC**) to set 'minimum standards' for workers in 'employee-like' forms of work, including workers in the 'gig economy'. This proposal recognises that many workers are not engaged as employees and therefore, are not often entitled to traditional minimum entitlements.

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The scope of workers that this proposal would extend to remains unclear, given that there is no universally understood definition of the gig economy.

Similarly, the content of the minimum standards that the FWC will be able to set through an order or decision is unknown, but may extend to:

- minimum rates of pay
- concepts of 'work' time (e.g. which activities performed by a worker should attract compensation);
- payment times (e.g. timeframes between performance of work and payment)
- workplace conditions, such as portable leave, rest breaks, etc;
- treatment of business costs, including vehicles and maintenance, insurances, licences, etc;
- record keeping;
- training and skill development, and
- dispute resolution.

Department of Employment and Workplace Relations – Consultations

Corrs Chambers Westgarth on SJSP

Corrs Chambers Westgarth on Casuals and Employee Like Arrangements

AFR on Business Council Australia's views

The Guardian on Business Council Australia and ACCI's views

AICD Submission on Criminalising Wage Theft

Minerals Council of Australia on Employee Like Arrangements

Commencement of bargaining changes in the Fair Work Act

The Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022 (Cth) introduced landmark changes to bargaining, which commenced operating on 6 June 2023.

What the amendments involve

The changes usher in a fundamental shift in bargaining dynamics, by giving unions increased powers to force employers to the bargaining table and by significantly amending the multi-employer bargaining regime.

Multi-employer bargaining is now structured under three streams:

1. Supported bargaining authorisation (**SBA**): this stream replaces the previous 'low paid bargaining stream'.
2. Single interest employer authorisation (**SIEA**): The Fair Work Commission (**FWC**) can grant a SIEA forcing multiple employers to bargain together if a range of factors are satisfied, including that the employers have 'clearly identifiable common interests' and that granting a SIEA would not be 'contrary to the public interest.'
3. Cooperative Workplace Agreements: this stream essentially renames the old voluntary multi-enterprise bargaining stream and retains the requirement that the employer consents to bargaining.

Once a SIEA or SBA covers an employer, they are 'locked into' bargaining for the specific kind of agreement until the authorisation ceases to apply (generally 12 months in the case of a SIEA). Importantly, it is open to employees to take protected industrial action in the course of bargaining for a SIEA agreement or an SBA agreement.

Other significant changes include the ability of an employee bargaining representative to unilaterally initiate bargaining with an employer for a single enterprise agreement that will replace a previous agreement, provided that no more than five years has passed since the nominal expiry date of the former agreement.

The reforms also give the FWC the ability to arbitrate when bargaining has become 'intractable'. A bargaining representative for a proposed single enterprise agreement, a SIEA agreement or a SBA agreement may apply to the FWC for an 'intractable bargaining declaration' (**IB Declaration**).

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Broadly, the FWC is able to make an IB Declaration when, in addition to other criteria, it is satisfied that there is no 'reasonable prospect of agreement being reached'. After making the IB Declaration, provided agreement is not reached in any 'post-declaration negotiation period' which the FWC may mandate, the FWC must make an 'intractable bargaining workplace determination', which sets the terms of the relevant agreement.

The sum effect of these changes is that previous bargaining strategies and approaches may no longer be effective and, particularly over the short term, we are likely to see industrial disputation increase as these new provisions are tested. These changes are designed to, and will, significantly change the dynamics of bargaining.

For further information, please see our Corrs insights [here](#) and [here](#)

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Protecting Worker Entitlements Act receives Royal Assent; enacting important workplace changes

The *Fair Work Legislation Amendment (Protecting Worker Entitlements) Act 2023 (Cth) (PWE Act)* received Royal Assent on 30 June 2023. It effects several important changes to the *Fair Work Act 2009 (Cth) (FW Act)*, including those in relation to parental leave, superannuation and employee authorised deductions.

A high-level summary of the key changes is set out below.

New National Employment Standards (NES) entitlement to superannuation (to commence on 1 January 2024)

The PWE Act introduces an employee entitlement to superannuation contributions into the NES, making it easier for employees to require payment of their minimum superannuation contributions. This amendment to the FW Act is intended to complement the powers of the Australian Taxation Office to recover unpaid superannuation. Provided that an employer is currently making the minimum required superannuation contributions, no further compliance action is required.

Authorised employee deductions (to commence on 30 December 2023)

Currently, an employer may make a deduction from an amount payable to an employee where, amongst other things, the deduction is authorised in writing by the employee. For the authorisation to be valid, it must specify the *exact amount* of the deduction. In effect, where the amount to be deducted from time to time may change, the FW Act requires that a separate authorisation be provided for each deduction, a time-consuming administrative task for employers and employees alike.

The PWE Act introduces the ability for employers and employees to agree on a standing arrangement under which multiple or ongoing deductions can be made, for varying amounts, under a single authorisation.

There is also a new requirement that the written deduction authorisation is to include any information prescribed by the *Fair Work Regulations 2009 (Cth)*. At this stage, the *Regulations* do not contain any such requirements.

Once the changes come into effect, pre-existing authorisations made for varying amounts may continue to operate, provided they meet the requirements of the amendments.

Greater flexibility in employee use of entitlement to unpaid parental leave (commenced on 1 July 2023)

The PWE Act provides employees with greater flexibility in how they utilise their entitlement to unpaid parental leave (UPL). This change aligns with other recent updates to Australia's Paid Parental Leave regime.

The NES entitles eligible employees to take up to 12 months of UPL, which must generally be taken as a single continuous period (**continuous UPL**). Prior

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System for Eliminating Sexual Harassment in Workplace (Model Text)

On March 8th, 2023, the Ministry of Human Resources and Social Security, the National Health Care Commission, the Supreme People's Procuratorate, the All-China Federation of Trade Unions, the China Enterprise Confederation/ China Entrepreneur Association, and the All-China Federation of Industry and Commerce jointly issued *the System for Eliminating Sexual Harassment in Workplace (Model Text)*, aiming to guide employers in improving the system for eliminating workplace sexual harassment and providing reference for prosecutorial authorities to safeguard women's right through public interest litigation.

Although *the System for Eliminating Sexual Harassment in Workplace (Model Text)* is only a guideline for employers, it provides for the definition of sexual harassment and its main forms, the employer's commitment, publicity and training, employee reporting and complaints, the employer's investigation and handling, and union participation and supervision. Notably, sexual harassment is defined as "a conduct that, against the will of another person, uses words, expressions, gestures, text, images, video, voice, links, or any other means to cause another person discomfort by sex-related associations, regardless of whether the perpetrator of the conduct has a harassment purpose or intent or any other improper purpose or intent." The prohibited behaviors in the workplace include, but are not limited to, "(1) teasing with unwelcome language, telling dirty jokes, telling personal sexual experiences to others, unwelcome name calling, etc.; (2) intentional touching, bumping, or kissing sensitive parts of others, inappropriately displaying private body parts, or sexually touching or fondling oneself in the vicinity of others ; (3) sending or displaying pornographic or provocative texts, pictures, voice or videos to others by means of messages such as WeChat, SMS, email, etc.; (4) displaying obscene pictures or advertisements around the workplace to embarrass others; (5) persistently expressing or transmitting content with sexual implications to others through stalking , harassing messages, sending items, etc.; (6) other sexual harassment behaviors.

Meanwhile, such model text also guides employers to keep confidential the identity of the reporting complainant and the investigation and handling, to pay attention to the protection of personal privacy rights, and to avoid causing secondary harm to victims by taking measures such as adjusting job positions.

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Special Labor Protection System for Female Employees in Workplace (Model Text)

On March 8th, 2023, the Ministry of Human Resources and Social Security, the National Health Care Commission, the Supreme People's Procuratorate, the All-China Federation of Trade Unions, the China Enterprise Confederation/ China Entrepreneur Association, and the All-China Federation of Industry and Commerce jointly issued *the Special Labor Protection System for Female Employees in Workplace (Model Text)*, aiming to guide employers in improving the special labor protection system for female employees in the workplace, protecting the legal rights and interests of female employees, promoting their physical and mental health, and also providing a reference for prosecutorial authorities to safeguard women's rights through public interest litigation.

Although *the Special Labor Protection System for Female Employees in Workplace (Model Text)* is only a guideline for employers, it details the protection of female employees in terms of labor employment, salary and welfare protection, maternity protection, occupational safety and health protection, etc..

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Circular on Issues Relating to Phased Reduction of Unemployment Insurance and Work Injury Insurance Rates

On March 29th, 2023, the Ministry of Human Resources and Social Security, the Ministry of Finance, and the State Taxation Administration jointly issued the *Circular on Issues Relating to Phased Reduction of Unemployment Insurance and Work Injury Insurance Rates*, aiming to further alleviate the burden on enterprises, enhance their vitality, and promote employment stability.

The Circular on Issues Relating to Phased Reduction of Unemployment Insurance and Work Injury Insurance Rates specifies that the policy of phased reduction of unemployment insurance rates and work injury insurance rates will be extended until the end of 2024, including:

1. The unemployment insurance rate will continue to be phased reduced to 1%. Within the administrative areas of provinces (autonomous regions and municipalities), the rates for employers and individuals should be unified, and the individual rate should not exceed the employer rate.
2. The work injury insurance rate will continue to be phased reduced by a certain percentage in accordance with the implementation conditions listed in *the Circular of the General Office of the State Council of the People's Republic of China on the Issuance of a Comprehensive Plan for Reducing Social Insurance Rates* (Guo Ban Fa [2019] No. 13).

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System for Eliminating Child Labor in Workplace and Enhancing Special Labor Protection for Minor Workers in Workplace (Model Text)

On June 2nd, 2023, the Ministry of Human Resources and Social Security, the National Health Care Commission, the Office of the National Working Committee on Children and Women under the State Council, the All-China Federation of Trade Unions, the China Enterprise Confederation/China Entrepreneur Association, and the All-China Federation of Industry and Commerce jointly issued *the System for Eliminating Child Labor in Workplace and Enhancing Special Labor Protection for Minor Workers in Workplace (Model Text)*, aiming to guide employers in improving the system for eliminating child labor and enhancing special labor protection for minor workers in the workplace, as well as providing a reference for employers when signing labor contracts with minor workers.

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Circular on Continuation of the Implementation of the One-off Job Increase Subsidy Policy

On June 25th, 2023, in order to promote employment among college graduates and other young people, the Ministry of Human Resources and Social Security, the Ministry of Education, and the Ministry of Finance jointly issued *the Circular on Continuation of the Implementation of the One-off Job Increase Subsidy Policy*, aimed at leveraging the role of unemployment insurance in assisting enterprises in expanding employment, and encouraging enterprises to actively hire college graduates and other young people.

The Circular on Continuation of the Implementation of the One-off Job Increase Subsidy Policy extends the implementation of the one-off job increase subsidy policy until the end of December 2023, including:

1. For enterprises that recruit, conclude employment contract with and pay the unemployment, work injury and employee pension insurance premiums for at least one month for the graduates of regular higher education institutes who have not been employed within two years after graduation and those graduated in 2023 and the youths aged 16-24 who are registered

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as unemployed, they are entitled to the one-off job increase subsidy with no more than RMB1,500 for each person recruited.

2. The employment insurance information and the identification of each person aforementioned can be used by only one enterprise for the one-off job increase subsidy and cannot be re-used. Enterprises can only benefit from either the one-off job increase subsidy or the one-off employment absorption subsidy.

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Administrative Provisions on Human Resources Service Agencies

On June 29th, 2023, the Ministry of Human Resources and Social Security issued *the Administrative Provisions on Human Resources Service Agencies*, which applies to human resources service agencies engaging in human resources services within the territory of China, and will come into effect on August 1st, 2023.

It provides comprehensive provisions on matters in relation to the licensing and filing, service standards, supervision and management, and legal responsibilities of human resources service agencies, in particular:

1. A human resources service agency shall indicate the validity period of job postings published by it or update job postings published by it in a timely manner.
2. A human resources service agency that collects and releases any supply and demand information on human resources shall establish a sound information release review and complaint mechanism to ensure that information released is true, lawful, and effective.
3. When a human resources service agency finds that any employer or any human resources service agency with which it cooperates engaged in illegal activities, such as false recruitment, it shall keep relevant records, suspend or terminate the provision of relevant services, and report the same to the relevant authorities.
4. A human resources service agency shall establish various mechanisms such as personal information protection, personal information security monitoring and early warning, and shall not disclose, tamper with, destroy, or illegally sell or provide to others any personal information collected, and shall take necessary measures to prevent illegal acts such as identity theft.
5. A commercial human resources service agency shall not charge individuals for service items other than those expressly stated, and shall not induce or force individuals to participate in activities such as loans, shareholding, and fundraising under any pretexts.

[More...](#)

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Hong Kong Court Refuses to Grant Springboard Injunction to Protect Employer's Confidential Information

Hong Kong's Court of First Instance (CFI) dismissed a plaintiff company's application for a springboard injunction in *DCL Communication Limited v Lam Yim Chi Julia and Reach Technology Solutions Limited* [2023] HKCFI 98.

A springboard injunction removes any advantage or head start a former employee, or his/her subsequent employer, may have obtained through misusing a former employer's confidential information.

The plaintiff lost its maintenance contract with a long-standing client and realised the original sale contract with that client had been handled by the first defendant who was its former employee. The plaintiff suspected that the former employee had contacted its clients and enticed those clients away after leaving the company and applied for a springboard injunction to enjoin the second defendant company, i.e. the new employer of the former employee, from using or disclosing any of the plaintiff's confidential information.

The CFI refused to grant the springboard injunction, considering the plaintiff's case was only built upon suspicion and speculation, without concrete evidence of any unlawful behaviour by the two defendants. This case shows that there are high evidential and legal hurdles to overcome for obtaining a springboard injunction. Employers are advised to gather appropriate evidence before launching legal action and note that they are generally unable to impose any contractual restraint on an employee to protect themselves against mere competition.

[For more details, see our legal update at the link](#)

HONG KONG

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Hong Kong Expands Pilot Scheme to Facilitate Short-term Visitors without Needing an Employment Visa

The Pilot Scheme on Immigration Facilitation for Visitors Participating in Short-term Activities in Designated Sectors (Scheme) has been expanded to cover two new designated sectors (Finance, Development and Construction) and 50 authorised host organisations with effect from 1 February 2023.

Under the Scheme, eligible visitors do not need to apply for an employment visa/entry permit to undertake specified short-term activities in Hong Kong. The duration of participation in the specified short-term activities is up to 14 consecutive calendar days.

[For more details, see our legal update at the link](#)

HONG KONG

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"An Accident" under the Employees' Compensation Ordinance (ECO) in Hong Kong – Case Analysis Involving a Stroke Injury

In *Chow Kai Yan by Man Wai Tong, his next friend v. Kingsway Cars Service Limited* [2022] HKDC 165, the Court reaffirmed the principles in determining whether an employee is entitled to compensation under Section 5 of the ECO, i.e. whether an employee has sustained an injury by accident arising out of and in the course of employment.

The plaintiff employee suffered from an acute cerebral stroke and fell into a coma and his family claimed for compensation under the ECO. The employer denied liability under the ECO, specifically the plaintiff did not identify any "accident" which might have resulted in the alleged injury.

Hong Kong's District Court held that the proper approach to section 5 of the ECO is a 3-stage test:

1. An applicant must identify an event or a series of events which constitute the "accident", which must be something "external which has some physiological or psychological effect upon that part of the sufferer's anatomy which sustains the actual trauma, or some bodily activity of the sufferer which would be perceptible to an observer if one were present when it occurred".

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2. The applicant must show that the "accident" caused or contributed to the injury.

3. The applicant must prove that the accident occurred in the course of employment and arising out of the employment. If there is evidence to the contrary showing that an accident arising in the course of employment did not arise out of that employment, the accident shall not be deemed as arising out of that employment under section 5(4)(a) of the ECO.

The District Court considered the cerebral stroke could not constitute an "accident" and was in fact the "injury". As such, the plaintiff employee's claim under section 5 of the ECO was dismissed.

For more details, see our legal update at the link

HONG KONG

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Hong Kong's New Minimum Wage Effective From 1 May 2023

With effect from 1 May 2023, the minimum wage rate in Hong Kong increased to HK\$40 per hour.

The monthly threshold amount for keeping records of hours worked will be increased accordingly to HK\$16,300 per month. Employers should ensure that they remain in compliance with the new minimum wage rate.

For more details, see our legal update at the link

HONG KONG

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Hong Kong: COVID-19 Vaccination Requirements under the Employment Ordinance were Repealed

The vaccination provisions that were introduced in June 2022 into the Employment Ordinance (EO) were repealed on 16 June 2023. Under the vaccination provisions, failing to comply with a legitimate vaccination request is a "valid reason" for dismissal or variation of contract.

Employers are reminded that legitimate vacation requests made prior to 16 June 2023 ceased to have effect from that date onwards and non-compliance with the vaccination requests is no longer a valid reason under section 32K of the EO for the dismissal of employees or variation of their contracts.

For more details, see our legal update at the link

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New Guidance on Data Breach Handling and Data Breach Notifications

As the number of data breach incidents increased significantly in the first half of 2023, the Office of the Privacy Commissioner for Personal Data (PCPD) issued a "Guidance on Data Breach Handling and Data Breach Notifications" (the Guidance).

The Guidance suggested a 5-step approach in handling data breaches:

1. Immediate gathering of essential information
2. Containing the data breach
3. Assessing the risk of harm
4. Considering giving data breach notifications
5. Documenting the breach

The Guidance also states that organisations, in the event of a data breach incident, should notify the relevant parties, including the affected data subjects and the PCPD as soon as practicable.

For more details, please see the PCPD's webpage



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INDIA 01 JAN 2023	<p>Employees’ Provident Fund Organization (EPFO) launched a unified portal for principal employers to check provident fund (PF) compliances for their contractors and contract workers.</p> <p>The EPFO has launched a unified portal for principal employers to view PF compliances with respect to their contractors and contract workers. The EPFO has advised all principal employers to register on the unified portal and regularly check their contractor’s compliances under the Employees’ Provident Fund and Miscellaneous Provisions Act, 1952.</p> <p>This portal came into effect on 1 January 2023.</p> <p>More...</p>
INDIA 12 JAN 2023	<p>Mandatory requirement to file applications online under the Contract Labour (Regulation and Abolition) Act, 1970 (CLRA) in Puducherry</p> <p>The government of Puducherry, pursuant to the Business Reforms Action Plan 2022 has mandated factories to submit applications for licenses or the renewal of any license under CLRA by factories through online mode only.</p> <p>More...</p>
INDIA 19 JAN 2023	<p>Directions issued by sub-regional office of the Employee State Insurance Corporation (ESI) to employers in Kollam in respect of contributions during employee’s leave</p> <p>The Kollam’s sub-regional office of the ESI has released a letter directing employers to not make contributions for the period wherein the employee is on leave in accordance with the Employees’ State Insurance Act, 1948 (ESI Act). The amount paid for such leaves by the ESI shall be recovered from the employees and action shall also be taken against such employers for wrong filing of contributions under the ESI Act.</p> <p>More...</p>
INDIA 30 JAN 2023	<p>Amendment to labour welfare fund laws in Madhya Pradesh</p> <p>The state government has notified the Madhya Pradesh Labour Laws (Amendment) Act, 2022 which amends the labour welfare fund laws. The amendment allows for a person alleged of an offence under the Act to compound the offences upon payment of fixed sum as determined by the state government and the competent authorities.</p> <p>More...</p>
INDIA 20 FEB 2023	<p>Notification of the Inter-State Migrant Workmen (Regulation of Employment and Condition of Service) (Gujarat) (Amendment) Rules, 2023 (ISM Gujarat Amendment Rules)</p> <p>The state government of Gujarat has notified the ISM Gujarat Amendment Rules. The aforesaid rules have introduced a timeline for granting registrations and licenses, i.e., they must be granted within 45 days of receipt of the application made under the Inter-State Migrant Workmen (Regulation of Employment and Condition of Service) (Gujarat) Rules, 1981. In case the authorities fail to issue the registration or license within the said timeline, then such application would be deemed to be approved by the authorities.</p> <p>More...</p>
INDIA 20 FEB 2023	<p>Notification of the Contract Labour (Regulation and Abolition) (Gujarat) (Amendment) Rules, 2023 (CLRA Gujara Amendment Rules)</p> <p>The state government of Gujarat has notified the CLRA Gujarat Amendment Rules. The aforesaid rules have introduced a timeline for granting of registrations and licenses, i.e., they must be granted within 45 days of receipt of the application made under the Contract Labour (Regulation and Abolition)</p> <p><i>Continued on Next Page</i></p>



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(Gujarat) Rules, 1972. In case the authorities fail to issue the registration or license within the said timeline, then such application would be deemed to be approved by the authorities.
[More...](#)

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Declaration of authority for shops and establishments in the state of Maharashtra
The state government of Maharashtra has declared Nagar Panchayats constituted under the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965, and panchayats established or deemed to have been established under the Maharashtra Village Panchayats Act, 1959 to be the local authorities for the purpose of enforcement of the Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2017.
[More...](#)

INDIA
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The Factories (Karnataka Amendment) Bill, 2023
The state government of Karnataka has proposed to amend various provisions of the Factories Act, 1948. The key amendments that have been proposed are as follows:

- to increase daily maximum hours up to 12 hours, subject to a maximum of 48 hours a week;
- to exempt certain factories from provisions pertaining to intervals of rest;
- to increase spread over hours up to 12 hours;
- clarified payment of overtime wages in cases of a five-day work week and a six-day work week; and
- employment of woman workers between the hours of 6:00 AM to 7:00 PM subject to certain new conditions, such as ensuring sufficient restrooms are available for women, adequate women security guards are in place, changes in shift to be effected only after the weekly holiday or any other holiday, collection of bio-data and pre-employment background checks of drivers to be engaged for the transportation of employees at night.

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Employment of women during night shifts in the state of Haryana
The government of Haryana has prescribed conditions subject to which women employees could be employed in night shifts (i.e., from 08:00 PM to 6:00 AM) by Information Technology/Information Technology Enabled Services (IT/ITES) establishments, banking institutions, three-star or above hotels, hundred percent export-oriented establishments, logistics, and warehousing establishments. This notification supresses the earlier notifications issued by the government of Haryana in this regard. The key conditions to be met for a grant of exemption are set out below:

- Application for grant of exemption shall be made to the Labour Commissioner or Chief Inspector within one month prior to the date of commencement of the period in respect of which the exemption is prayed for.
- Express prohibition of any form of sexual harassment. Framing rules relating to prohibition of sexual harassment and ensuring compliance with the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
- Transport facilities equipped with CCTV cameras to be provided to women working at night from their residence and back.
- Security guards be available (including female security guards), and sufficient security at entry and exit points.
- Proper lighting and CCTV cameras to be installed in the shops/establishments, as well as the areas surrounding the shops/establishments where the women employees may move out in necessity in the course of their work.

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- Not less than 1/3 of the supervisors or shift-in-charge or other supervisory staff in the night shift must be women.
- Declaration/consent of women employees must be obtained in writing in advance and a copy of the same shall be forwarded to the labour commissioner, Haryana.
- Ensuring compliance with the provisions of the Punjab Shops and Commercial Establishments Act, 1958 (as applicable to Haryana) especially with provisions relating to working hours and Equal Remuneration Act, 1976 for payment and with all other applicable labour and employment laws.
- If the establishment/management provides boarding and lodging arrangements for the women employees, the same must be maintained exclusively for the women under the control of women wardens or supervisors.
- Establishment/management must provide for appropriate medical facilities and make available a telephone facility for emergencies. Further, where the number of women employees in a shift is 100 or more, a separate vehicle must be kept ready to deal with emergency situations.
- The women employees should be allowed to raise issues of sexual harassment to workers in appropriate forums, written or in electronic form or through a complaint box.
- The women employees must be made aware of their rights by prominently notifying them the guidelines on the subject of sexual harassment.
- There shall be not less than 12 consecutive hours of rest or gap between the last shifts and the night shift wherever a woman employee is changed from working in a day shift to night shift and so also from night shift to day shift.
- Separate canteen facilities must be provided for women employees if the number of women employees is 50 or more except in IT/ITES establishments.
- Women employees working in night shifts and regular shifts must have a meeting through their representative with the principal employer once in eight weeks as grievance day and the employer shall try to comply with all just and reasonable grievances.
- Submission of an annual report to the Labour Commissioner, Haryana regarding the details of employees engaged during night shifts and must send an immediate report to the Labour Commissioner and local police station if an untoward incident takes place.
- Security in-charge/management is to maintain a boarding register/digitally signed computerized record consisting of the following details - (a) Date, (b) Name of the Model & Manufacturing of the Vehicle, (c) Vehicle Registration No. (d) Name, Address, Phone/Contract No. of the Driver, and (e) Time Pick up of the women employees from the establishment destination.
- Exemption granted shall be valid for a period of 1 year unless there is any change of security, transportation agreements and other details of occupier/director/manager.

[More...](#)

The Uttarakhand {Uttar Pradesh Interstate Migrant Workmen (Regulation of Employment and Condition of Services)} (Amendment) Rules, 2023

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The Government of Uttarakhand has amended Rule 3 of the Uttarakhand Uttar Pradesh Interstate Migrant Workmen (Regulation of Employment and Condition of Services) Rules, 1983. The amendment requires that an application for registration of establishments must be made online on the official portal of the labour department. Further, if the decision on the application/registration is not taken by the concerned authority within 20 days then the registration will be automatically accepted.

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Amendment to the professional tax laws in Meghalaya

The state government of Meghalaya has amended the Meghalaya Professions, Trades, Callings and Employment Rules, 1947. The Meghalaya Trades, Calling and Employment (Amendments) Rules, 2022 introduces provisions relating to certificate of registration and enrolment, interest amounts, and the manner of levying interest by the assessing authority. It also prescribes formats and fees for filing memorandum of appeal, refund applications etc.

[More...](#)

INDIA
14 MAR
2023

Amendment to professional tax laws in Karnataka

The state government of Karnataka, amended various provisions of the Karnataka Tax on Profession, Trades, Callings, and Employments Act, 1976 (**Karnataka Professional Tax Act**), including the provision regarding escaped tax, interest on delayed payments, and consequences of failure to deduct or to pay tax.

The said amendment is effective from 01/04/2023.

Under the Karnataka Professional Tax Act, employers are required to deduct professional tax payable from the salary of the employee and pay such tax on behalf of the employee to the authorities. The key changes as a result of the amendment are as follows:

- A new schedule has been introduced detailing the rates of tax on various classes of persons. With respect to employees, prior to the amendment, the obligation on the employer was to deduct INR 200 from the salaries of employees earning INR 15,000 and above in a month. The salary range has now increased to INR 25,000 and above.
- Prior to the amendment, in case of non-payment of tax, up to 50% of the amount of tax due could be levied as penalty on the employer. However, as a result of the amendment, if there is any non-compliance, the penalty would be limited to 10% of the amount of tax due.
- The simple interest on arrears has been increased from 1.25% to 1.5%.

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24 MAR
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Notification permitting shops and establishments in Tamil Nadu to remain open all days

The state government of Tamil Nadu has issued a notification permitting all shops and establishments to remain open on all days of the year, for a period of three years with effect from 23 March 2023. The exemption is subject to compliance with provisions on working hours, overtime, holidays, prevention of sexual harassment at workplace laws, and provision of basic amenities such as washrooms and rest rooms to the employees. Further, establishments are allowed to employ women employees at night provided their written consent is obtained and adequate security and protection measures are taken.

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Notification of the Punjab Shops and Commercial Establishment (First Amendment) Rules, 2023 (Punjab S&E Amendment Rules)

The government of Punjab has notified the Punjab S&E Amendment Rules which introduce Rules 23 and 24. Rule 23 requires the name of the establishment to be predominantly displayed in Punjabi first and the name in any other language can be placed below that. For non-compliance, a penalty of INR 1,000 could be imposed for the first offence and INR 2,000 for subsequent offences under Rule 24.

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The Telangana Government notifies guidelines that establishments are required to adhere to in order to operate 24/7 in the state.

The Telangana Government, by notification has granted exemption to establishments from adhering to the opening and closing hours prescribed in the Telangana Shops and Establishments Act, 1988 (**Telangana S&E Act**), and has allowed establishments to operate 24/7, subject to their adhering to the guidelines below:

- Establishments must issue identity (**ID**) cards to employees.
- Establishments are required to provide a weekly day off to employees.
- Employers must ensure payment of overtime wages to employees.
- Employees must be provided with a compensatory holiday if they are required to work on a notified national/festival holiday.
- Adequate safety/security measures must be provided to female employees.
- Employers must obtain the consent of any female employees working in night shifts and must provide transportation facilities to such employees to and from their place of residence.
- Establishments must maintain records and furnish returns as prescribed under the Telangana S&E Act.

[More...](#)

INDIA

06 APR

2023

The Maharashtra Government amends the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (**Maharashtra Professional Tax Act**)

The state government of Maharashtra has amended the Maharashtra Professional Tax Act. The key changes as a result of the amendment are as follows:

- Female employees earning wages up to INR 25,000 have been exempted from payment of professional tax. Female employees earning wages more than INR 25,000 per month will be taxed at the same rate of tax as the rate for male employees who earn wages more than INR 10,000 per month (i.e., INR 200 per month for all months except for February, for which the rate would be INR 300).
- Prior to the amendment, the Maharashtra Professional Tax Act provided that employees suffering from 'permanent physical disability' (including blindness) would be exempted from payment of professional tax. After the amendment, any employee with a 'benchmark disability' (as defined under the Rights of Persons with Disabilities Act, 2016) (**Disabilities Act**) shall be exempted from the provisions of the Maharashtra Professional Tax Act. The term 'person with benchmark disability' refers to a person which suffers from at least 40% of any of the disabilities notified under the Schedule to the Disabilities Act.

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Maharashtra Labour Laws (Amendment) Act 2022 (**Maharashtra Labour Laws Amendment Act**)

The state government of Maharashtra has enacted the Maharashtra Labour Laws (Amendment) Act, 2022. This Act amends the penalty provisions of five labour laws. The Act has removed penalty provisions relating to imprisonment in the event of contravention of the provisions of the five labour laws. However, the monetary penalty has substantially increased under all five labour laws. The amendment is with respect to the following statutes:

- The Maharashtra Industrial Relations Act, 1947
The amendment prescribes penalty up to INR 1,000,000 but not less than INR 500,000 for illegal lockouts or closures. It also prescribes a penalty of INR 500,000 for illegal change implemented by the employer.

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- Maharashtra Labour Welfare Fund Act, 1953
The prescribed penalty under this statute has increased from INR 500 to INR 10,000 for the first offence, and from INR 1,000 to INR 200,000 for every subsequent offence. Additionally, the amendment provides for compounding of offences by the welfare commissioner.
- Maharashtra Mathadi, Hamal, and other Manual Workers (Regulation of Employment and Welfare) Act, 1969
The prescribed penalty for contravention under the statute has increased from INR 500 to INR 500,000 for the first offence, and INR 100 to INR 5,000 for each day of a continuing offence. It also provides for compounding of offences by the chairman of the concerned board.
- Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981
The state government established a scheme under the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981 to govern the terms and conditions of employment of security guards in any factory or establishment. The amendment increased the prescribed penalty for contravention of the provisions under the scheme from INR 500 to up to INR 500,000 for the first offence and from INR 1,000 to up to INR 1,000,000 for the subsequent offence. The amendment also provides for compounding of offences by the chairman of the concerned board.
- Maharashtra Workmen’s Minimum House-rent Allowance Act, 1983
The prescribed penalty for avoiding payment under the statute has been increased from INR 2,000 to INR 1,000,000. Further, the prescribed penalty for other offences has increased from INR 1,000 up to INR 1,000,000.

[More...](#)

INDIA
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The Employees State Insurance Corporation (ESIC) allows Aadhaar seeding for newly insured persons on a voluntary basis.

The ESIC has issued a circular allowing for Aadhaar seeding and authentication for newly insured persons and pensioners on a voluntary basis. Employers can now seed the Aadhaar details of an employee on the ESIC portal and the personal details of an employee would be automatically inputted into the system.

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INDIA
18 APR
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The Factories (Goa Amendment) Act, 2019

The Factories (Goa Amendment) Act, 2019 amends various provisions including the penal provisions under the Factories Act, 1948. The key amendments are:

- Chief inspector is empowered to grant exemptions from provisions relating to weekly hours, weekly holidays, daily hours, and spread over in case of exceptional press of work.
- Increase in the limitation period from three months to six months for cognizance of offence by the courts.
- Insertion of section 92A which provides for compounding of certain offences by the Chief Inspector or Inspector.
- Insertion of Schedule 4 which provides for the list of compoundable offences under section 92A.

[More...](#)

INDIA
21 APR
2023

The Punjab Child Labour (Prohibition and Regulation) First Amendment Rules, 2023

The state government of Punjab has notified the Punjab Child Labour (Prohibition and Regulation) First Amendment Rules, 2023. Few key features of the amendments are:

- Insertion of provisions on:
 - Public awareness on prohibition of employment of child and adolescents in contravention of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986;
 - Conditions prescribed for child helping his family;

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- Conditions prescribed for child to work as an artist;
- Payment to child or adolescent from and out of child and adolescent labour rehabilitation fund;
- Duties of district magistrate and inspectors;
- Filing of complaints; and
- Replaces provision relating to certificates of age. The new rule specifies the documents that can be examined for determining the age of the adolescent under the statute.

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23 APR
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The Employees' Provident Fund Organization (EPFO) issues notification to its regional offices to comply with the judgement of the Supreme Court (SC) in *Employees Provident Fund Organisation & Anr v. Sunil Kumar B & Anr*

The key highlights of the notification are provided below:

- The applications/joint options will be examined by the regional offices. If the applications are complete, they will be verified against the data available in the regional offices. In case all information matches, the dues will be calculated, and an order will be passed for deposition/transfer of dues.
- In case such applications are not approved, an employer will be given an additional opportunity to provide additional proof/correct any mistakes/errors (including those made by employees/pensioners). Employees will have a period of 1 month to make such corrections. If complete information is not received within 1 month, an order will be passed based on merit and the information provided.

Any grievance by any applicant can be registered on the EPFiGMS grievance management portal. Such grievances will be addressed and disposed of by the nominated officers.

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Mandatory requirement to file applications online under the Contract Labour (Regulation and Abolition) Act, 1970, and under the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979

The government of Puducherry in furtherance of the Business Reforms Action Plan 2022 has mandated the online submission of application for registration, and amendment of establishment under the Contract Labour (Regulation and Abolition) Act, 1970, and under the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.

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Filing of list of National and Festival holidays online by factories in Puducherry

The government of Puducherry has mandated the online filing of the Intimation of National and Festival Holidays in Form V factories under the Puducherry Industrial Establishments (National and Festival Holidays) Act, 1964.

[More...](#)

INDIA
03 MAY
2023

The Ministry of Labour and Employment (MoLE) notifies the implementation of certain provisions of the Code on Social Security, 2020 (SS Code) relating to the Employees' Pension Scheme, 1995 (EPS)

Section 15 of the SS Code empowers the Central Government to frame a new pension scheme. The MoLE has brought into force Section 15 and other related sections of the SS Code with effect from 3 May 2023 (**Effective Date**). As a result, from the Effective Date, the existing law, Employees' Provident Funds and Miscellaneous Provisions Act, 1952 will be repealed to the extent

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it relates to the current pension scheme (i.e., Employees' Pension Scheme, 1995 (EPS)). Consequently, once the Central Government frames the new pension scheme under the SS Code, it will replace the EPS. That said, the EPS will continue to remain in force, (to the extent it is not inconsistent with the SS Code) for a period of 1 year from the Effective Date.

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The Ministry of Labour and Employment (MoLE) notifies the rate of employer's contributions towards the Employees' Pension Scheme, 1995 (EPS) in light of the judgement of the Supreme Court (SC) in *Employees Provident Fund Organisation & Anr v. Sunil Kumar B & Anr*

The MoLE, by notification, has notified the rate of contributions from the employer's share of monthly provident fund contributions towards the EPS for employers that opt for higher pension. As per the notification:

- For employees who have been members of the EPS as of 1 September 2014 and exercised the joint option with their employers to make contributions on wages exceeding INR 15,000 per month, the employer's share towards the pension fund account of such employees will be 9.49% of the wages exceeding INR 15,000 per month (instead of 8.33% of such wages), with effect from 1 September 2014.
- The increased contributions would be applicable to basic wages, dearness allowance and retaining allowance to the extent such basic wages, dearness allowance and retaining allowance exceed INR 15,000 per month.

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04 MAY

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Amendment to the Andhra Pradesh Labour Welfare Fund Rules, 1988 (AP Labour Welfare Fund Rules)

The state government of Andhra Pradesh by way of notification has amended the Andhra Pradesh Labour Welfare Fund Rules, 1988. The amendment provides for penal provisions and additional procedures on appointment of authorities and appeal in cases of levy fines. The amendment notification introduces Rule 22A, Rule 22B, Rule 25 and Form H.

- Rule 22A provides for appointment of authorities and appellate authorities.
- Rule 22B provides for appeal for fines (format for appeal and procedure).
- Rules 25 provides for penalties for violation of the AP Labour Welfare Fund Rules.
- Form H has been added to correspond to the above amendments, providing for a register of appeals on fines.

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INDIA

15 MAY

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The Telangana Government extends the permission provided to all establishments in the state to operate 24/7 for a period of 3 years

The Telangana Government, by notification has extended the permission given to establishments in the state to operate 24/7 for a further period of 3 years, subject to compliance with the welfare provisions applicable under various labour laws and subject to adhering to the guidelines below.

- Employees normal working hours can be up to 8 hours per day and 48 hours per week. Employers are required to maintain a wage register separately with respect to employees who worked beyond these prescribed hours.
- If on inspection, employees are found to be working on the weekly holiday or overtime, without proper payment of overtime wages, the exemption from the requirement to follow closing hours is liable to be cancelled.

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Employers are required to provide transportation facilities to women employees working beyond 8:30PM. A notice indicating the availability of transport must be posted at the main entrance of the establishment in Hindi and Telugu.

- Establishments must issue letters of appointment to employees (with a copy to the jurisdiction Inspector).
- Establishments are required to maintain a visit book exhibiting a copy of the exemption for verification by the Inspector for compliance with the conditions of the exemption.
- Employees' wages must be credited to their savings bank accounts.
- Provident fund and employee state insurance deductions must be made with respect to eligible employees.

If the employer violates any statutorily prescribed conditions, the exemption is liable to be cancelled.

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Online portal introduced to collect cess under the Building and Other Construction Workers Welfare Cess Act, 1998 in Tripura

The state government of Tripura has introduced an online portal (<https://labourcess.tripura.gov.in>) for deposition of 1% labour cess under the Building and Other Construction Workers' Welfare Cess Act, 1996 and rules framed thereunder. The labour cess is to be deposited through the portal going forward.

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17 MAY

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Implementation of labour codes delayed beyond April 2023.

The four labour codes i.e. Code on Wages, 2019 (**Wage Code**), Industrial Relations Code, 2020 (**IR Code**), Code on Social Security, 2020 (SS Code) and Occupational Health, Safety and Working Conditions Code, 2020 (**OSH Code**) (together '**Labour Codes**') were passed by the Parliament and were granted Presidential assent in September 2020. The Labour Codes were originally expected to come into effect from 1 April 2021. However, the implementation of the Labour Codes has been deferred for the time being.

The state government of Rajasthan has released the state rules under the IR Code for public comments during Q2 of 2023. The draft rules provide for a window of 45 days from the date of publication for submitting the public/ stakeholder comments. The state government will review the comments received by various stakeholders, assess the scope for making changes/ revisions to the rules, and thereafter publish the final rules under the Labour Codes. The finalized rules, once published, will subsume the respective rules under the subsumed laws in Rajasthan.

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17 MAY

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Bill notification of the Tamil Nadu Shops and Establishments (Amendment) Act, 2023

The bill notification provides for substitution of section 3 of the Tamil Nadu Shops and Establishments (Amendment) Act, 2018 which pertains to the registration of shops and establishments.

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Notification of the Tamil Nadu Shops and Establishments (Amendment) Act, 2023

The Tamil Nadu Shops and Establishments (Amendment) Act, 2023 introduces sections 22B, 22C, 22D and 22E. These sections provide for the amenities and facilities to be provided by the employer such as drinking water, washrooms, rest room and first aid.

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INDIA	<p>19 MAY 2023</p> <p>Amendment to the Chhattisgarh Factories Rules, 1962 (Chhattisgarh Factories Rules)</p> <p>The state government of Chhattisgarh has omitted (i.e., removed) Rule 53 of the Chhattisgarh Factories Rules. Rule 53 pertains to the whitewashing of urinals and washrooms in the factories. The amendment provides for omission of the said Rule 53.</p> <p>More...</p>
INDIA	<p>20 MAY 2023</p> <p>Closing hours revised under the Himachal Pradesh Shops and Commercial Establishments Act, 1969 (HP S&E Act)</p> <p>The government of Himachal Pradesh has extended the closing hours of shops and commercial establishments from 9:00 PM to 11:00 PM. The same shall be applicable till 31 July 2023 subject to compliance with the provisions of the HP S&E Act and other applicable labour laws.</p> <p>More...</p>
INDIA	<p>22 MAY 2023</p> <p>The Chhattisgarh Rights of Persons with Disabilities Rules, 2023</p> <p>The state government of Chhattisgarh has notified rules under the Rights of Persons with Disabilities Act, 2016. The Chhattisgarh Rights of Persons with Disabilities Rules, 2023 pertain to the rights and benefits of disabled persons.</p> <p>More...</p>
INDIA	<p>23 MAY 2023</p> <p>Special Board established for security guards in Satara district under the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981</p> <p>The government of Maharashtra has established a special board for security guards, to be known as 'Satara District Security Guards Board'. This is specific to all the classes of security guards falling under the district of Satara.</p> <p>More...</p>
INDIA	<p>01 JUN 2023</p> <p>Manner of computation of contributions to the pension fund with respect to employers that opt for higher pension notified by the Ministry of Labour and Employment.</p> <p>The Ministry of Labour and Employment (MoLE) notifies the manner of computation of pension with respect to employees who are eligible for and have opted for higher pension in furtherance to the judgement of the Supreme Court (SC) in <i>Employees Provident Fund Organisation & Anr v. Sunil Kumar B & Anr. (Pension Judgement)</i>. The notification states that in respect of employees who are eligible for and have opted for higher pension, where the date of commencement of pension is <i>prior</i> to 1 September 2014 – pension will be calculated based on average monthly pay drawn during the contributory period of service in the span of 12 months preceding the date of exit from the membership of the fund.</p> <p>For employees who are eligible for and have opted for higher pension, where the date of commencement of pension is <i>post</i> 1 September 2014, pension will be calculated based on the average monthly pay drawn during the contributory period of service in the span of 60 months preceding the date of exit from the membership of the fund.</p> <p>More...</p>
INDIA	<p>02 JUN 2023</p> <p>Permission extended for shops and establishments to remain open throughout the year in Punjab</p> <p>The state government permitted all establishments under the Punjab Shops and Commercial Establishments Act, 1958 (Punjab S&E) to remain open for 365 days of the year for a further period of 1 year till 31 May 2024, subject to compliance with the conditions prescribed in the notification. The key conditions are:</p> <p>Continued on Next Page</p>

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- Compliance with the provisions relating to weekly holiday, daily and weekly working hours, payment of overtime wages, spread over, rest intervals etc. under the Punjab S&E.
- Adequate safety and security measures to be ensured for employees and visitors if an establishment remains open beyond 10:00 PM on any day.
- New staff to be hired for the extended timings as establishments have been permitted to be open for all days.
- Separate locker, security and rest rooms to be provided at workplace to women employees.
- Written consent of the women employees who work after 8:00 PM to be obtained. Adequate safety and security arrangements to be maintained during working hours, and safe travel to home from work to be ensured. Records of consent letters to be maintained.
- Constitution of internal committee under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

Further, non-compliance with the prescribed conditions or any provision of the Punjab S&E could lead to cancellation of the exemption exemption from adhering to the closing hour requirements after giving a due opportunity of being heard by the competent authority.

[More...](#)

INDIA

02 JUN

2023

The Employees State Insurance Corporation (ESIC) issues clarificatory letter on declaring 'Inactive' mode on the Ministry of Corporate Affairs (MCA) portal

The ESIC has issued a letter clarifying that companies registered through the MCA portal are required to declare the 'Inactive' status of the company within six months of registration to avoid defaulter action. Inactive mode subsists on the ESIC portal for a period of the 6 months. Prior to the end of 6 months, the company can further extend the 'inactive' mode for another period of six months – however, the option of declaring inactive mode would not be available to employers after the expiry of this six-month period.

[More...](#)

INDIA

02 JUN

2023

Ministry of Labour and Employment (MoLE) notifies strict adherence to timelines while scrutinizing applications for validation of the joint option to prevent any administrative delays in compliance with the Pension Judgement (*Employees Provident Fund Organisation & Anr v. Sunil Kumar B & Anr*)

In accordance with the directions of the Supreme Court, the MoLE has notified that in the event that any applications for validation of the joint option require any additional proof or evidence, or contain any mistakes, a communication must be issued to the employer within 20 days of the receipt of such applications, to furnish the required additional information/correct any mistakes.

[More...](#)

INDIA

02 JUN

2023

Employees Provident Fund Organization (EPFO) issues notification with the prescribed format for joint applications to remit provident fund (PF) contributions on higher pay

The EPFO by notification has prescribed a format through which a joint application can be filed by employers and employees, if the intent is to contribute to the Employees' Provident Funds Scheme, 1952 (**Scheme**) on actual salary and not on capped salary of INR 15,000. Earlier, there was no specific format prescribed by the EPFO.

[More...](#)

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LOOKING BACK

Important:
action likely required

Good to know:
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Note changes:
no action required

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Looking Forward

Documents/Information for verification of application for contributing on higher pension in furtherance of the Pension Judgement (*Employees Provident Fund Organisation & Anr v. Sunil Kumar B & Anr*)

The Ministry of Labour and Employment has notified that in respect of employees who are eligible for and have opted for higher pension, the Employees' Provident Fund Organisation would verify if:

- The employer's share of provident fund (PF) contributions have been remitted on pay exceeding the then prevalent wage ceiling [INR 5000/6500/15000] per month from the date the employees pay exceeded the wage ceiling or 16 November 1995 (whichever is later) till the date of retirement/superannuation.
- Administrative charges payable by the employer have been remitted.
- PF account of the employee has been updated with interest on the basis of contributions received.
- Any of the following documents have been submitted along with the applications for validation of the joint option (as proof and permission):
 - Wage details submitted by the employer.
 - Any salary slip/letter authenticated by the employer.
 - Copy of the joint request and undertaking by the employer.
 - Letter from the PF office issued prior to 4 November 2022 indicating PF contributions on higher wages.

For applicants who qualify for the above verification and are already contributing/have contributed till retirement on higher pay that have not already submitted the joint application - such applicants can submit the same at the time of their final settlement with their last employer. The notification also prescribes a pro forma which can be submitted by pensioners at any time before the grant of pension on higher wages.

[More...](#)

INDIA

14 JUN

2023

Haryana government notifies an increase in the rate of employer and employees' contributions to the labour welfare fund

The Haryana government, by notification, has increased the rate of employers and employees' monthly contributions to the labour welfare fund. As per the revised rates:

- Employees' contribution: 0.2% of salary subject to a limit of INR 31
- Employers' contribution: 2x the employees contribution

The limit of INR 31 will be indexed annually to the consumer price index beginning from 1 January each year.

[More...](#)

INDIA

27 JUN

2023

Notification of the Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) (Amendment) Rules, 2023 (Maharashtra S&E Amendment Rules 2023)

The Maharashtra S&E Amendment Rules 2023 amends display of notice requirement for shift schedules in shops and establishments. Prior to the notification of the Maharashtra S&E Amendment Rules 2023, notice of shift schedules were to be displayed in the prescribed format on the website as well as at a conspicuous place in the shops and establishments. The Maharashtra S&E Amendment Rules 2023 amends and adds the word "website or" instead of "website and" for notice of shift schedule under the Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) Rules, 2018. Therefore, shift schedules can either be displayed on the website or at a conspicuous place in the shop and establishment.

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2023

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LOOKING BACK

INDIA
28
JUN
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Amendment of Tamil Nadu Factories Rules, 1950 (TN Factories Rules)

The state government of Tamil Nadu has omitted (i.e., removed) Rule 47 of the TN Factories Rules. Rule 47 pertains to the whitewashing of urinals and washrooms in the factories. The amendment provides for omission of the said Rule 47.

[More...](#)

Important:
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Good to know:
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Note changes:
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Important:
action likely required

Good to know:
follow developments

Note changes:
no action required

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INDONESIA
**08
MAR**
2023

Minimum Wage Adjustment

The Indonesian Minister of Manpower (“**MOM**”) has issued MOM Regulation No. 5 Year 2023, dated March 8, 2023, regarding the Adjustment of Working Hours and Wages in certain Export-Oriented Labor-Intensive Companies Affected by Changes in the Global Economy (“**MOM Reg. No. 5**”).

MOM Reg. No. 5 allows companies that qualify to adjust their working hours and wages based on a mutual agreement with the company’s labor union. The executed mutual agreement must be registered at the local manpower office and is only valid for a maximum of 6 months.

[More...](#)

INDONESIA
**31
MAR**
2023

Indonesia’s Manpower Law is now known as Law No. 13 Year 2003, as amended by Law No. 6 of 2023.

Indonesia’s House of Representatives recently approved into law Government Regulation in Lieu of Law No. 2 Year 2022 on Job Creation (“**Job Creation Regulation**”), based on Law No. 6 Year 2023 on the Stipulation of Government Regulation No. 2 of 2022 in Lieu of Law No. 11 of 2020 on Job Creation into Law (“**Law No. 6**”).

Highlights of Law No. 6

- **Reduction of termination entitlements:** The Government eliminated the health and housing allowance component, which was 15% of the total Severance Pay and Service Pay, from the Compensation Pay for permanent employees under the Manpower Law. The implementing regulation of the current Manpower Law (Government Regulation No. 35 of 2021) also reduced the termination entitlements of Severance Pay and Service Pay for permanent employees across the board.
- **Notice of termination procedure:** Indonesia has adopted the notice of termination concept that is very common in many jurisdictions. Previously, all terminations were subject to the approval of the Labor Court unless agreed by the employee. Under Law No. 6, employers must give 14 working days’ notice of termination and such termination is effective unless the employee objects in writing within 7 working days after receipt of the notice.
- **Outsourcing:** Under the current Manpower Law as amended, a company may hand over part of the execution of its work to another company through an outsourcing agreement. The Government plans to issue an implementing regulation to clarify which work or type of work can be outsourced to another company.
- **Minimum wage:** The formula for calculating the minimum wage considers the variables of economic growth, inflation, and certain indexes. The Government in certain circumstances may stipulate a different formula for calculating the minimum wage.
- **Expatriate employees:** The Government has simplified work permit procedures but maintains the prohibition on employing foreigners in human resources positions. Expatriate employees can only be hired on fixed-term employment agreements.
- **Fixed-term employees:** A fixed-term employment agreement can be made for a maximum of five years without any break. A fixed-term employee is entitled to receive compensation pay upon the expiration of a fixed-term employment agreement.
- **Job Loss Security program:** The government has introduced Job Loss Security, a new social security program under the BPJS Employment (BPJS Ketenagakerjaan) social security program. Job Loss Security benefits consist of (a) a monthly cash benefit for six months, (b) access to job market information and career counselling, and (c) online or offline job training.

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INDONESIA

29
MAY

2023

Guidelines on Sexual Violence in the Workplace

The Indonesian Minister of Manpower (“**MOM**”) has issued Decree No. 88 Year 2023 regarding Guidelines for the Prevention and Handling of Sexual Violence in the Workplace (“**MOM Decree No. 88**”).

Highlights of MOM Decree No. 88 include the new obligation for companies to establish a task force for the prevention and handling of sexual violence in the workplace and the requirement that companies provide compensation to victims.

More...

Important:
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required

Good to know:
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JAPAN 01 APR 2023	<p>Enforcement of 2021 amendments to the Childcare and Family Care Leave Act</p> <p>The amendments to the Childcare and Family Care Leave Act that were enacted in 2021 have been enforced in stages, and are now fully in effect. As a result of these enforcements, on and after 1 April 2023, employers who employ more than 1,000 employees on a regular basis must disclose through the Internet or other appropriate means, at least once a year, the status of childcare leave taken by their male employees (e.g., percentage of male employees who took childcare leave during the previous fiscal year).</p> <p>More...</p>
JAPAN 01 APR 2023	<p>Expiration of grace period for the application of certain overtime pay regulations to small and medium-sized employers</p> <p>Under the Labor Standards Act, an employer must pay premium wages for overtime work at a rate of 25% or more of regular wages. Additionally, after the amendments to the Labor Standards Act came into effect in 2010, if the number of hours for which an employee performs overtime work exceeds 60 hours in one month, the employer must pay premium wages for the hours of overtime work in excess of those 60 hours at a rate of 50% (not 25%) or more of their regular wages. However, for small and medium-sized employers, the application of the overtime pay regulations under such amendments was deferred, and they were only required to pay premium wages for overtime work at a rate not less than 25% of regular wages, even if the hours for which employees performed overtime work exceeded 60 hours in a month. This grace period expired on 31 March 2023, and small and medium-sized employers are now obligated to pay premium wages at a rate of 50% or more if they have their employees perform overtime work in excess of 60 hours in a month.</p> <p>More...</p>
JAPAN 01 APR 2023	<p>Digital payment of wages</p> <p>Under the Labor Standards Act, employers were previously obligated to pay wages either (i) directly to employees or (ii) by remittance to their designated bank accounts with the consent of the employees. With the recent amendments to the Ordinance for Enforcement of the Labor Standards Act that came into effect on 1 April 2023, employers are now permitted to make digital payments of wages through any of the fund transfer agents designated by the Minister of Health, Labour and Welfare. In order for an employer to make digital payments to employees, the employer will be required to satisfy several conditions. Examples of such conditions include: to conclude a certain written agreement (a so-called "labour-management agreement") with a trade union organised by a majority of the employees (or, if such union does not exist, an employee who represents a majority of the employees); and to obtain the individual consent of employees for such digital payments after explaining to them the details of the payment methods. In addition, if an employee does not want to receive wages through such digital payment methods, then the wages must be paid in the manner mentioned in (i) or (ii) above.</p>
JAPAN 23 JUN 2023	<p>Enactment of the Act for the Enhancement of Public Understanding of the Diversity of Sexual Orientation and Gender Identity</p> <p>On 23 June 2023, the Act for the Enhancement of Public Understanding of the Diversity of Sexual Orientation and Gender Identity (the "New Act") was enacted. This New Act stipulates the basic principles regarding the promotion of measures to enhance public understanding of the diversity of sexual orientation and gender identity ("SOGI"). Under this New Act, employers are not strictly required, but are obligated to make efforts, to (i)</p> <p>Continued on Next Page</p>

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promote understanding of the diversity of SOGI among their own employees and (ii) cooperate with the measures implemented by the national or local government to enhance public understanding of the diversity of SOGI.

Important:
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MALAYSIA

01
JAN

2023

Employment (Amendment) Act 2022

Thus far one of the most important and far-reaching amendments to the Employment Act 1955. The amendments bring about some important changes to the existing Act. Key changes include:

- Maximum working hours capped at 45 hours per week (previously 48 hours);
- Paid maternity leave for 98 days (previously 60 days);
- Paid maternity leave of 7 consecutive days;
- Paid sick leave of up to 60 days (where hospitalisation is necessary) and an additional 14-22 days of sick leave (where hospitalisation is not necessary);
- Wages calculation for an incomplete month's work;
- Flexible working arrangement;
- New rules as to dealing with sexual harassment in the workplace;
- Outlawing forced labour; and
- Prohibition on termination of pregnant employees.

[More...](#)

[More...](#)

MALAYSIA

01
JAN

2023

Employment (Amendment of First Schedule) Order 2022

The Order brings about new changes to the Employment Act 1955 ("the Act"), particularly to the First Schedule whereby the Act now applies to all employees rather than employees who earn RM2,000.00 and below (pre-amendment). However, there are exceptions, those who earn RM 4,000.00 and more will not be covered under Subsection/Section:

- 60(3) - This provision governs the rates applicable to employees who are required to perform work during their "rest days" including any Overtime rates during the rest days;
- 60A(3) - Section 60 A (3) prescribes the rate of Overtime payment during a normal working day;
- 60C(2A) - This is a new provision pursuant to the latest Amendments to the Act, A1651, which empowers the Minister of Human Resource to make regulations in connection with allowance during employees' shift work;
- 60D(3) - This section discusses the rates to be paid to employees working on a paid holiday and for overtime work carried out in excess of normal hours of work on a paid holiday;
- 60D(4) - This provision provides that any holiday that falls on a half working day, the rate to be paid shall be as if it was a full working day; and
- 60J - This provision provides for termination, lay-off and retirement benefits.

[More...](#)

MALAYSIA

01
JAN

2023

New Guidelines of Employment of Foreign Workers in Malaysia

Regarding the hiring of foreign workers, the recently added Section 60K of the Employment (Amendment) Act 2022 mandates that employers must secure advance authorization from the Director General of Labour before employing any foreign worker or expatriate, regardless of their remuneration. Nevertheless, this approval is contingent upon fulfilling the subsequent stipulations:

- a. The employer has no outstanding matter relating to any decision, order or directive issued under the Employment Act; or
- b. The employer has no outstanding matter for any conviction under the laws applicable to social security, minimum wages or minimum housing; or
- c. The employer has not been subjected to any conviction in relation to human trafficking and forced labour.

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NEW ZEALAND

22 SEP

2022

Employment Relations (Restraint of Trade) Amendment Bill

On 22 September 2022, the Employment Relations (Restraint of Trade) Amendment Bill was introduced to Parliament. The Bill proposes to prohibit the use of restraint of trade clauses in employment agreements for lower and middle income employees.

The Bill will also require employers of higher income employees to carefully consider whether a non-compete and non-solicitation restraint of trade is appropriate in relation to those employees and, if they insist on a restraint of trade, to compensate the employees for it.

If passed, this Bill would have a significant impact on when restraints of trade can be included or enforced. In particular the Bill would:

- provide that restraints of trade have no effect wherever an employee earns less than three times the minimum wage;
- limit the use of restraints of trade to those situations where the employer has reasonably considered a restraint to be appropriate;
- require employers to pay to employees at least half of the employee's weekly earnings for the time the restraint of trade is in effect;
- limit the duration of restraints of trade to no longer than 6 months.

The Bill is currently with the Select Committee, who are due to report back on the Bill by 26 January 2024.

[See the Bill here](#)

NEW ZEALAND

01 DEC

2022 ONWARDS

Fair Pay Agreements Act 2022

The Fair Pay Agreements Act 2022 came into force on 1 December 2022, which will allow employers and unions within a sector, to bargain for minimum terms and conditions for all employees in a specific industry or occupation. The system is similar to the Modern Award system currently used in Australia. Bargaining can be initiated where the applicant union meets a requisite threshold, and the Chief Executive of the Ministry of Business, Innovation and Employment subsequently approves the application to initiate bargaining.

The fair pay agreements will sit above, and work alongside, individual and other collective agreements to create a minimum floor of rights for all employees in a particular occupation or industry, regardless of union membership.

Applications to initiate bargaining have been approved in the following for the following occupations/industries:

- Hospitality industry;
- Grocery supermarket industry;
- Security officers and security guards;
- Commercial cleaners;
- Early childhood education industry; and
- Bus drivers, coach drivers and cleaners.

An application to initiate bargaining for waterside workers is currently being reviewed and assessed by the Chief Executive of the Ministry of Business Innovation and Employment.

[See the FPA Applications here](#)

NEW ZEALAND

30 MAR

2023

Proposed introduction of legislation to replace the Holidays Act 2003

The Holidays Act is notoriously difficult to interpret and apply. Many workplaces have found that payroll systems do not calculate all leave entitlements correctly, leaving employers in breach of the Act's requirements. A Government-established Holidays Act Taskforce completed a review of the Holidays Act, and its 22 recommendations were accepted by the Government in 2021.

The latest indications are that a new Bill to replace the Holidays Act 2003, may be introduced to Parliament prior to New Zealand's General Election (14 October 2023). However, the Ministry of Business, Innovation and Employment

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has indicated that the Bill will not be passed before the election, and that given its complexity and wide-reaching impacts that the Bill will have, a full and robust Select Committee process will need to be undertaken.

[See the details of the Holidays Act review here](#)

NEW ZEALAND
06 APR
2023

The Crimes (Theft By Employer) Amendment Bill

On 6 April 2023 the Crimes (Theft By Employer) Amendment Bill was introduced to Parliament.

If enacted, the Bill would amend the Crimes Act 1961 to make wage theft by employers, a criminal offence. The proposal aims to stop the exploitation of employees by their employer, with a particular focus on New Zealand’s migrant population.

The Bill defines wage theft as a situation where an employer owes an employee money (under their employment agreement or as otherwise required by law) and intentionally fails to pay the money to the employee. Mistaken underpayments, such as holiday pay errors, would not be captured by the Bill.

Currently, employees who are victims of wage theft can only claim in the civil jurisdiction, by pursuing an action for wage arrears. A claim is filed to the Employment Relations Authority which seeks an award for the unpaid amount. An employee can also seek penalties against their employer for breaching their employment agreement, in respect of a failure to pay monies to the employee.

If enacted, the Bill would introduce the following penalties for employers who are found guilty of wage theft:

- A fine of up to NZ\$5,000 and/or up to one year imprisonment for natural persons, or
- A fine of up to NZ\$30,000 for employing entities.

The Bill is currently awaiting its First Reading.

[See the Bill here](#)

NEW ZEALAND
08 JUN
2023

Raiser Operations BV v E Tū Incorporated [2023] NZCA 216

In June, the Court of Appeal granted Uber the right to appeal a decision of the Employment Court in which the Employment Court found four Uber drivers to be employees of Uber, rather than independent contractors. Uber sought leave from the Court of Appeal to appeal the Employment Court’s decision, on the basis that the Employment Court had erred in law.

In granting leave to appeal, the Court of Appeal will consider the longstanding test of assessing the “real nature of the relationship” in the context of the gig economy. The Court of Appeal acknowledged the importance of ensuring the correct approach to determining whether an individual is an employee or an independent contractor is applied, given the “new ways and fast-moving changes to the way in which work is done”.

The Court of Appeal will determine whether the Employment Court erred by:

1. misdirecting itself on the application of s 6 of the Employment Relations Act (the meaning of “employee”);
2. misapplying the test in s 6 of the Employment Relations Act, or in the alternative, was the Court’s conclusion so insupportable as to amount to an error of law; and
3. finding that joint employment may arise as a result of a number of entities being sufficiently connected and exercising common control over an employee.

[See the decision here](#)

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Important:
action likely required

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Note changes:
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The Employment Relations (Extended Time for Personal Grievance for Sexual Harassment) Amendment Act 2023

The Employment Relations (Extended Time for Personal Grievance for Sexual Harassment) Amendment Act 2023 came into force on 13 June 2023, amending the provisions of the Employment Relations Act 2000. Employees now have 12 months to raise a personal grievance with their employer for sexual harassment, which is a longer timeframe than the 90-day period in which an employee is required to raise all other personal grievances.

The Act now requires new individual employment agreements entered into after 13 June 2023 to provide a specific reference to the 12-month period for raising personal grievances relating to sexual harassment. Any collective agreements which are currently being bargained for, and which are yet to be concluded, will also need to include such a provision, to ensure compliance with the Act.

[See the Act here](#)

NEW ZEALAND
30 JUN
2023

GF v Comptroller of the New Zealand Customs Service [2023] NZEmpC 101

In September 2021, the Employment Relations Authority held that the New Zealand Customs Service (**Customs**) had justifiably dismissed the worker (GF) for failing to get a COVID-19 vaccine.

The worker was employed in a fixed-term border protection officer role to assist in managing the risk of COVID-19 entering New Zealand in the maritime environment. After undertaking a health and safety risk assessment, Customs found that because the worker was unvaccinated they could not continue in their border role. Customs considered suitable redeployment options for the employee but none were available.

GF appealed the decision of the Employment Relations Authority to the Employment Court, who upheld the employee’s appeal and found that they had been unjustifiably dismissed. The Court held that this was because Customs failed to engage with GF sufficiently before dismissing them and Customs did not undertake an adequate individualised health and safety risk assessment of GF’s role. This finding was despite the fact that neither GF nor their representative raised any issues at the time with the process.

The Court found that Customs had failed to comply with its obligations of good faith and did not hit the “baseline” or “stripped back” requirement to act as a fair and reasonable employer, and those failures led to GF being unjustifiably disadvantaged and dismissed.

Notably, in relation to good faith, the Court held that Customs was a large organisation with significant resources at its disposal, including human resources and access to legal advice and support. This is relevant to the assessment of good faith and the Court held it was up to Customs to ensure it met its obligations, “*whether or not the employees it was dealing with, or the advocates representing them, raised red flags that others might have raised or waved them with the same degree of vigour*”.

The Employment Court awarded NZ\$25,000 in compensation for hurt and humiliation and three months’ lost earnings.

In reaching the decision, Chief Judge Inglis made a number of significant observations in relation to:

- The banding approach to awards for compensation in respect of hurt and humiliation. The bands were first introduced five years ago, and in order to remain current for future cases, the Chief Judge took the opportunity to adjust the bands:
 - NZ\$0 - NZ\$12,000 (band 1 – low level harm or damage);
 - NZ\$12,000 - NZ\$50,000 (band 2 – middle level harm or damage); and

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Important:
action likely required

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- NZ\$50,000 + (band 3 – high level harm or damage).
- The effect of incorporating tikanga or tikanga values into employment relationships. One of GF’s claims was that Customs failed to comply with tikanga or tikanga values that Customs had voluntarily imported into its employment relationships with employees. The Chief Judge did not accept that tikanga or tikanga principles were merely aspirational statements, as opposed to obligations Customs was required to meet. The Court held that where an employer purports to incorporate tikanga or tikanga values into an employment relationship, the extent to which these commitments have been met is relevant to an assessment, for all employees (Māori and non-Māori), of:
 - o fairness and reasonableness in the test of justification (s 103A, Employment Relations Act 2000 (ERA)); and
 - o compliance with the obligations of good faith (s 4, ERA).
- Heightened employment obligations on public sector employers. The Court found that s 73 of the Public Service Act required Customs to honour a commitment it has incorporated into its employment relationship with all employees to act consistently with applicable tikanga or tikanga values. The Chief Judge also held that it is ‘seriously arguable’ that the Public Service Act’s provisions place heightened “good employer” obligations on public service organisations.

[See the decision here](#)

NEW ZEALAND
13 JUL
2023

Pilgrim & Ors v Attorney-General & Ors [2023] NZEmpC 105

The Court recently issued a decision which declared that six women who were born and raised in a remote Christian Community were employees and not volunteers during their time there.

The six plaintiffs were born and raised in the Gloriavale Christian Community. During their time at Gloriavale, the plaintiffs carried out work within the community from a young age which progressed to full time on what was known as the ‘Teams’. The Teams were tasked with cooking, cleaning, washing and food preparation, collectively producing more than 11,000 meals and washing more than 17,000 items per week.

Each of the six plaintiffs left the community between 2017 and 2021. They raised concerns with a Labour Inspector from the Ministry of Business, Innovation and Employment, about the working conditions at Gloriavale. The Labour Inspectorate concluded that people who worked in Gloriavale Teams were not employees. The plaintiffs sought a declaration from the Employment Court that they were employees while working on the Teams.

The Employment Relations Act 2000 excludes ‘volunteers’ from the definition of an employee, but only where the worker has no expectation of reward for their work and receives no reward. The Court found that the plaintiffs did expect to be rewarded for their work on the Teams. Their reward was being permitted to remain in the community with their family and friends; receiving food, shelter, clothing, religious support and guidance and the promise of spiritual redemption. They were rewarded and, therefore, they were not volunteers.

The fact the work was ‘domestic’ in nature was not material in determining if the plaintiffs were employees or not. The Court considered, objectively, the nature of the work undertaken by the plaintiffs, including how it was structured and managed; whether it was work which generally would be paid for; the nature of the facilities; and the significant direction and control exerted on the plaintiffs in their work. All these factors pointed to the real nature of the relationship as being one of employment. The Court has not yet determined on remedies.

[See the decision here](#)



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New Progressive Wage Mark To Identify & Support Companies Paying Progressive Wages To Workers

Consumers and service buyers are now better able to identify and support companies that pay Progressive Wages to their lower-wage workers following the unveiling of the new Progressive Wage (PW) Mark. The PW Mark is an accreditation scheme that recognises such companies, which can then use the Mark to profile themselves as businesses that support better wages for lower-wage workers. This is part of a whole-of-society effort to uplift lower-wage workers. This scheme was recommended by the Tripartite Workgroup on Lower-Wage Workers in August 2021, and is administered by the Singapore Business Federation on behalf of the tripartite partners (Ministry of Manpower (MOM), National Trades Union Congress and Singapore National Employers Federation).

PW Mark & PW Mark Plus

All employers who hire at least one local worker covered by *Sectoral or Occupational Progressive Wages* are eligible to apply for the PW Mark. To receive PW Mark accreditation, employers must (i) pay the relevant workers Progressive Wages, and (ii) pay all other local workers at least the *Local Qualifying Salary*.

Additionally, employers who go one step further in adopting the *Tripartite Standard on Advancing Well-being of Lower-Wage Workers (TS-LWW)* will be accredited with the PW Mark Plus. The TS-LWW outlines progressive practices that provide better support for our lower-wage workers in workplace safety and health, training and career development, and rest area provision.

PW Mark required for eligible Government suppliers

For new tenders called from 1 March 2023, the Government will require eligible suppliers and their subcontractors to be accredited with the PW Mark for the duration of the contract period. This requirement will extend to procurement done via quotations from 1 March 2024.

Application for PW Mark via GoBusiness

Employers who wish to apply for the PW Mark can do so through *GoBusiness*. Upon approval of accreditation, employers will be able to download a digital certificate that can be used to profile their companies to consumers. Since applications opened in December 2022, about 1,900 companies have been accredited with the PW Mark.

Whole-of-society effort to uplift lower-wage workers

MOM encourages employers to do their part by paying Progressive Wages and getting their companies accredited with the PW Mark. Consumers and service buyers can also contribute by supporting PW Mark-accredited companies. The list of accredited companies can be found at go.gov.sg/pwmarklist.

Tripartite partners are progressively implementing the expansion of Progressive Wages to cover more lower-wage workers. From 1 March 2023, the Food Services Progressive Wage Model (PWM) and Occupational Progressive Wages for Administrators and Drivers will take effect. The Waste Management PWM will also be implemented from 1 July 2023. To support employers as they adjust to the Progressive Wage requirements, the Government provides co-funding support through the *Progressive Wage Credit Scheme*.

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Government Accepts Recommendations by International Advisory Panel to Strengthen Workplace Safety & Health

The Government has accepted the eight key recommendations by the International Advisory Panel (IAP) on strengthening workplace safety and health (WSH). These recommendations aim to reduce workplace incidents, mitigate the WSH risks arising from climate change and green technology, and guide the Ministry of Manpower (MOM) and their stakeholders towards achieving their WSH 2028 goals.

Key Recommendations

To attain a sustainable WSH culture, stakeholders must have both the motivation – be it commercial, reputational or personal interests – as well as the knowledge to do so. To generate stronger motivation for companies and workers to embrace WSH, the IAP recommended the following (for the full list of recommendations, visit go.gov.sg/8IAPWSH):

- Placing strong emphasis on top management’s responsibility for WSH. Top management must foster a safe operations culture where safety considerations are embedded into all aspects.
- Extending WSH oversight to contractors in the whole supply chain.
- Bring interest of business into greater alignment with WSH.
- Building workplaces where workers feel safe to speak up.

At the same time, the IAP recognised the need to strengthen the knowledge and awareness of stakeholders to better manage WSH risks. It also recommended:

- Inculcating a more pervasive training culture, beyond foundational training and level up WSH practices.
- Improving WSH know-how of small-to-medium enterprises.
- Promoting age-friendly workplace safety practices and designs.
- Pre-emptively addressing WSH risks arising from climate change and green technology.

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Formation of Platform Workers Work Injury Compensation Implementation Network

The Ministry of Manpower has set up a Platform Workers Work Injury Compensation Network (PWIN) to develop key operational policies and implementation details for the Work Injury Compensation regime for Platform Workers. The PWIN comprises companies, insurers, and tripartite partners. The list of representatives in the PWIN can be found below.

Some key operational policy issues that the PWIN will look into include the process for reporting work injuries, claims processing in exceptional scenarios where Platform Workers are injured while “at work” for more than one platform company at the same time, and how to determine Platform Workers’ earnings to compute income loss compensation. Some implementation details include the operational processes required to support insurance claims processing and dispute resolution.

ANNEX

Summary of Recommendations by the Advisory Committee on Platform Workers

Coverage of Recommendations

1. Platform Workers should not be classified as employees.
2. Require Platform Companies that exert a significant level of management control over Platform Workers to provide them with certain basic protections.

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Ensuring Adequate Financial Protection for Platform Workers in case of Work Injury

3. Require Platform Companies to provide the same scope and level of work injury compensation as employees' entitlement under the Work Injury Compensation Act (WICA).
4. Require the Platform Company that the Platform Worker was working for at the *point of injury* to be responsible for compensation, based on the Platform Worker's total earnings from the platform sector in which the injury was sustained.
5. Determine sector-specific definitions of when a Platform Worker is considered "at work".
6. Retain the strengths of the current WICA regime, including the provision of work injury compensation insurance through the existing open and competitive insurance market.

Improving Housing and Retirement Adequacy of Platform Workers

7. Align Central Provident Fund (CPF) contribution rates of Platform Companies and Platform Workers with that of employers and employees respectively; required for Platform Workers who are aged below 30 in the first year of implementation.
8. Allow older cohorts of Platform Workers who are aged 30 and above in the first year of implementation to opt in to the full CPF contribution regime.
9. Require Platform Companies to collect Platform Workers' CPF contributions to help workers make timely contributions.
10. Phase in the increased CPF contributions over five years, unless major economic disruption warrants a longer timeline. To ease the impact, the Government may wish to consider providing support for Platform Workers and the form this should take.

Enhancing Representation for Platform Workers

11. Give Platform Workers the right to seek formal representation through a new representation framework designed for Platform Workers.
12. Set up a Tripartite Workgroup on Representation for Platform Workers (TWG) to co-create the new representation framework.

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MOM Extends Heightened Safety Period by Three Months with Additional Measures

The Ministry of Manpower (MOM) extended the Heightened Safety Period (HSP) by three months from 1 March to 31 May 2023, with additional measures. The HSP was first introduced on 1 September 2022 for six months, with stronger measures to address the concerning rise in workplace fatalities. The annualised workplace fatality rate per 100,000 workers improved during the HSP, falling from 1.5 for January-August 2022, to 0.8 for September-December 2022. The full year fatality rate for 2022 was 1.3 per 100,000 workers.

However, the annualised major injury rate per 100,000 workers increased from 16.8 to 18.7 in that same period. The impact of HSP was also uneven across sectors. While the Construction sector showed the most improvement in terms of monthly average fatal and major injuries, the Transportation & Storage sector's monthly average fatalities did not improve and its major injuries worsened during HSP.

Since the start of 2023, there have been four workplace fatalities. Furthermore, based on past trends, periods post-Chinese New Year have had higher workplace injury numbers as companies rush to compensate for workdays lost. Heightened alert and vigilance need to be maintained.

Additional Measures During Extended HSP

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During the extended HSP, MOM put in place the following additional measures, taking into account the previous recommendations of the International Advisory Panel, to complement existing ones (see Annex below for existing measures):

- **Require CEOs and Board of Directors to attend a mandatory half-day in-person Workplace Safety and Health (WSH) training course**, for companies found to have serious WSH lapses following serious or fatal workplace accidents.
 - This is on top of existing HSP measures where companies may be barred from employing new foreign employees for up to three months. MOM continued to require company leaders to personally account to MOM and take responsibility for WSH rectifications. These measures aimed to strengthen WSH ownership and accountability among corporate senior leadership, and better equip them to meet their WSH responsibilities.
 - The course curriculum is an enhanced version of the existing bizSAFE training for senior management. It featured additional modules on the Approved Code of Practice for Chief Executives and Board of Directors' WSH Duties, and root cause analysis of top incident types.
- **Increase maximum fines from S\$20,000 to S\$50,000** for breaches of WSH Act Subsidiary Legislation that could result in death or serious bodily injury, in order to enhance deterrence for WSH Act breaches.
- **Empower workers by raising awareness of the various channels to report WSH concerns and providing protection for workers who speak up**
 - The WSH Council launched a National WSH Campaign in April 2023, to encourage workers and members of the public to report unsafe practices at workplaces. Workers were encouraged to first report WSH concerns to their supervisors and companies for expedient resolution, before raising it to the authorities if no action was taken. This could be easily done through the SnapSAFE page on MOM's website, and a QR code leading to the page was displayed at worksites. Workers and members of the public could also call MOM's hotline at 6438 5122.
 - Migrant workers could also reach out to MOM through the FWMOMCare app, or reach the Migrant Workers' Centre at 6536 2692. The Campaign has also heightened awareness of the types of protection available for workers who report or raise WSH issues.
- **Introduce bite-sized versions of WSH guidance materials** to better support all companies, in particular small and medium-sized enterprises (SMEs), in instilling a stronger safe operations culture. This is in addition to the earlier expansion of the StartSAFE programme to better support SMEs. The WSH Council introduced these materials from May 2023.

Longer-term Measures to Sustain WSH Standards

Beyond the HSP and the above measures, MOM, together with the Multi-Agency Workplace Safety Taskforce (MAST), will consider further measures to strengthen WSH standards and practices. These include placing greater accountability on employers and senior management, enhancing safety training, reviewing incentives and penalties, and sectoral strategies.

Annex

Existing Initiatives for the HSP

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Initiatives	Details
Tighter enforcement measures	Companies found to have serious WSH lapses following serious or fatal workplace accidents may be debarred from employing new foreign employees for up to three months. Chief Executives will also be required to personally account to MOM and take responsibility for rectifications.
Strengthened support for SMEs who need help to improve their WSH practices and processes through the expansion of StartSAFE	Provide SMEs with more access to WSH consultants who can help them identify WSH risks and implement good WSH practices as part of the existing StartSAFE programme. The costs of the WSH consultants are fully borne by MOM.
Targeted measures for the construction sector	<ul style="list-style-type: none"> i. A new harmonised set of disqualification criteria across all public sector construction tenders to align the evaluation criteria and temporarily disqualify contractors with poor WSH performance from participating in these tenders; and ii. A Revised Demerit Point System, where the threshold for issuing demerit points is lowered. This means that more demerit points will be issued for WSH Act breaches, and errant companies with consistently poor WSH performance will reach the penalty thresholds more quickly - after which they will be debarred from hiring foreign employees for up to 2 years.
Set up MAST	<p>Comprising representatives from key government agencies that oversee sectors where most fatal and major injuries occur, MAST aims to:</p> <ul style="list-style-type: none"> i. Identify sectoral-specific strategies that complement MOM's cross-sectoral strategies, to contribute to a sustained reduction in workplace fatality and injury rates, and ii. Strengthen sectoral engagements with companies to reinforce the importance of WSH.

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41,000 Food Services Workers to Benefit from New Food Services Progressive Wage Model Recommendations

The Government accepted the Tripartite Cluster for Food Services (TCF)'s recommendations on their new Progressive Wage Model (PWM), released on 15 February 2023 (please refer to www.ntuc.org.sg/tripartiteguidelines). The recommendations set a three-year schedule of sustained PWM wage increases from 2023 to 2025, outline a clear career progression pathway for food services workers, and stipulate the training requirements for food services job roles. The changes took effect from 1 March 2023, with a transitional period of six months for employers to understand and comply with the requirements. MOM will then enforce the PWM requirements after the transitional period ends.

The TCF's recommendations will cover about 41,000 resident full-time and part-time food services workers, such as kitchen assistants, waiters and cooks, with those at the entry level seeing their monthly wages move up by 19% over the three-year period. These moves will complement the Food Services Industry Transformation Map 2025 in developing an innovative, vibrant Food Services sector.

Three-Year Schedule of Sustained Wage Increases

The TCF has recommended a three-year schedule of sustained PWM wage increases, including additional PWM wage requirements for overtime hours worked in a month.

From 1 March 2023, about 12,000 full-time food services workers will see their wages rise to at least the entry-level PWM wage level of S\$1,750. This baseline wage will increase from S\$1,750 in 2023 to S\$2,080 in 2025, an increase of 19% over the three-year period.

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Career Progression Pathway for Food Services Sector

The TCF has proposed a career ladder for the Food Services sector with differentiated tracks for two categories of food establishments: first, Quick-Service establishments (e.g. fast food outlets, food kiosks, food courts), and second, Full-Service establishments (e.g. restaurants with wait staff), caterers and central kitchens. Job roles included in the career ladder will be covered by mandatory PWM wage requirements, except for job roles in the highest rung where wages will be determined by market forces. The career ladder will provide workers with a clear progression pathway to higher wages, better skills, and increased job responsibilities.

Raising Productivity through Mandatory WSQ Training Requirements

Alongside the wage increases, the TCF has recommended that each food services worker complete a minimum of two Workforce Skills Qualifications (WSQ) training modules relevant to their job role. The training will help food services workers perform better at their jobs and contribute to their firm's productivity. Employers have one year from the implementation date of 1 March 2023 (i.e. up to the end of February 2024) to ensure that their workers meet the training requirements.

Phased Implementation of Food Services PWM and Occupational Progressive Wages from 1 March 2023

For the first six months from March to August 2023, MOM will give employers time to adjust and comply with the wage requirements. Tripartite partners will also be educating employers on the various Progressive Wage requirements. After this transitional period, employers who do not comply with the wage requirements may have their work pass privileges suspended.

In addition to the Food Services PWM, the Occupational Progressive Wage (OPW) for Administrators and Drivers also took effect from 1 March 2023, benefitting about 195,000 full-time and part-time resident administrators and drivers. The implementation of the Food Services PWM and OPW, together with the recently launched Progressive Wage Mark, builds upon the momentum of Progressive Wage moves. Up to 94% of lower-wage workers will be covered by Progressive Wages in 2023. This is a significant milestone in MOM's continuing efforts to uplift lower-wage workers and strengthen social compact.

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Implementation of Enhanced Medical Insurance for Foreign Employees to Better Support Employers

From 1 July 2023, the Ministry of Manpower (MOM) will implement enhancements to the mandatory medical insurance (MI) for all new and existing Work Permit (including Migrant Domestic Workers) and S Pass holders.

As announced previously, the MI enhancements will better protect employers should large medical bills be incurred by their foreign employees. Under the current S\$15,000 coverage limit, more than 5% of bills incurred exceed this limit and could put these employers under financial strain. As medical costs rise, this proportion will increase further over time. The higher annual claim limit of S\$60,000 will cover larger and more bills. This will minimise out-of-pocket expenses by employers, especially considering rising medical costs. MOM estimates that more than 99% of bills will fall within the new coverage and employers can have peace of mind.

Phased Implementation Approach

These enhancements will be implemented in two stages on 1 July 2023 and 1 July 2025 for insurance policies, renewals or extensions that have a start date effective on or after these dates. The increased annual claim limit of S\$60,000 with co-payment by employers for claim amounts above the first S\$15,000

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will be applied to policies on or after 1 July 2023. Other enhancements (ie. standardisation of allowable exclusion clauses, age-differentiated premiums, and direct reimbursement by insurers) will be applied to policies on or after 1 July 2025. The enhancements and their respective implementation dates can be found in the Annex to the MOM's press release, along with illustrations of the co-payment arrangement and list of allowable exclusions.

MOM had considered feedback from employer groups, insurers and industry partners in preparing the implementation approach, which phases out the enhancements and the cost impact and provides time for both employers and insurers to adjust to the changes. With many insurers expressing interest to offer enhanced MI products, the market will be competitive and employers will have a range of insurers to choose from.

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Details of Complementarity Assessment Framework (COMPASS) Bonus Criteria

The Ministry of Manpower (MOM) has released details on the Complementarity Assessment Framework (COMPASS) bonus criteria, comprising the Skills Bonus (Criterion 5) and the Strategic Economic Priorities Bonus (Criterion 6). These bonus criteria allow Employment Pass (EP) applicants who possess skills in shortage, and firms that contribute to Singapore's strategic economic priorities, to earn bonus points towards their total COMPASS score. These bonus points help companies secure the complementary foreign manpower necessary to seize economic opportunities in the immediate term, in recognition that there are limits to the local workforce.

Announced at MOM's Committee of Supply 2022, COMPASS is a new points-based framework that considers both individual and firm-related attributes to holistically evaluate an EP applicant's complementarity to Singapore's workforce. COMPASS provides firms with clarity and predictability for manpower planning, and recognises efforts to develop a strong local pipeline and a diverse foreign workforce.

COMPASS will apply to new EP applications from 1 September 2023, and to renewal EP applications from 1 September 2024.

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Skills Bonus (Criterion 5)

As Singapore moves to capture new economic opportunities, firms will require access to skilled talent to fill these jobs. The Government works closely with education and training institutes as well as tripartite partners to create a local pipeline by training our local graduates and reskilling mid-career workers for these good jobs. However, given the limited local workforce and worldwide competition for talent, the demand for skilled roles will also need to be met by complementary foreign manpower.

This is why the Shortage Occupation List (SOL) recognises EP applicants in occupations that require highly specialised skills currently in shortage in the local workforce. EP applicants filling an occupation on the SOL can earn up to **20 bonus points** on COMPASS. This gives firms greater certainty when it comes to hiring.

The SOL is developed by MOM and the Ministry of Trade and Industry (MTI) through a robust evaluation process, in consultation with sector agencies and tripartite partners. SOL occupations must exhibit strategic importance to Singapore's economic priorities plus a significant degree of labour shortage due to skills gaps.

In addition, one key consideration when placing an occupation on the SOL is a strong commitment by the sector agency to work with the industry to develop the local pipeline to address these shortages over time. Such efforts include working with the Institutes of Higher Learning to equip graduates with the

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necessary skills for the job, as well as instituting programmes to upskill and reskill locals who are already in the sector or in adjacent roles.

Verification checks and conditions for SOL candidates

For EP applicants who require the SOL bonus points to pass COMPASS, MOM will impose additional safeguards. First, MOM will conduct additional checks on the applicants, such as checking on their past work experience and whether the applicant has the qualifications, or industry accreditation that are relevant to the declared occupation. Second, such applicants, if approved, will have their employment restricted to the specific shortage occupation. This means that if their employer wishes to redeploy the EP holder to a different job role, the EP holder will be subject to a reassessment of their eligibility for an EP.

Strategic Economic Priorities Bonus (Criterion 6)

Singapore seeks to anchor and grow firms that can contribute to the innovative capacity of the economy, enhance global linkages, and strengthen economic competitiveness. This creates good jobs for locals.

The Strategic Economic Priorities (SEP) Bonus thus recognises firms undertaking ambitious investment, innovation, internationalisation, or company and workforce transformation activities. Firms receiving the SEP bonus will be awarded **10 bonus points** on COMPASS for each EP application submitted.

To qualify for the SEP Bonus, firms must be supported by sector agencies or the National Trades Union Congress (NTUC). To be considered, firms must participate in one of the eligible programmes run by agencies listed in Annex C of MOM's press release, and demonstrate commitment to developing the local workforce. Supported firms will be notified by MOM from the end of July 2023.

Supported firms will receive the SEP Bonus for up to three years. To continue receiving the SEP bonus after three years, firms are required to meet expectations on the COMPASS firm-related criteria: Diversity (Criterion 3) and Support for Local Employment (Criterion 4).

COMPASS resources on MOM's Website

MOM's website is regularly updated with the latest information on COMPASS. Firms can also access the Workforce Insights tool on *MyMOM Portal* to understand their performance on the firm-related criteria of COMPASS and benchmark their performance against industry peers.

Conclusion

MOM encourages firms to make use of the published information and available resources to plan for the transition to COMPASS when it takes effect for new EP applications from 1 September 2023.

FOOTNOTE

1. Bonus points are reduced to 10 points if the EP candidate's nationality forms one-third or higher of a firm's professionals, managers, executives and technicians (PMETs). This is to encourage resilience and diversity in firms in areas requiring these skills.

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New CDEConnect Centre to expand avenues of support for Migrant Domestic Workers and their Employers

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The Ministry of Manpower (MOM), in partnership with the Centre for Domestic Employees (CDE), launched a third CDEConnect centre at Woodlands. The centre, along with two others in the east (Tampines) and the south west (Pasir Panjang) respectively, will enhance accessibility and support for migrant domestic workers (MDWs) and employers residing in the northern part of Singapore.

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The three centres can facilitate up to 9,000 interviews per month with first-time MDWs on their adjustment to life and work in Singapore. The in-person interviews are conducted within the first six months of the MDW's employment in Singapore by interviewers who are fluent in the MDWs' native languages. MOM and CDE will engage MDWs and their employers to resolve issues that are raised, as well as educate both parties of their rights and responsibilities. In 2022, CDE conducted 34,000 interviews for first-time MDWs. Since January 2023, MOM and CDE have also started to progressively interview first-time MDWs for a second time between the sixth- and twelfth-months of their work here.

Other Enhanced Measures to Support MDWs and Employers

To provide greater convenience, MDW employers can now access a [new 24/7 online appointment system](#) to select their preferred CDEConnect centre, and the date and time for their first-time MDW's interview. Employers would be able to see the available date and time slots for the interview, choose or modify a slot and complete their booking easily. An acknowledgement of the booking and a reminder of the appointment would also be sent via email and SMS to the MDW employer.

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Exit from Heightened Safety Period and New Measures for Sustainable WSH Outcomes

At the launch of the National Workplace Safety and Health (WSH) Campaign 2023, the Ministry of Manpower (MOM) announced that the Heightened Safety Period (HSP) implemented on 1 September 2022 will end on 31 May 2023, without further extension. The HSP has served its purpose as an urgent call on employers to prioritise safety and bring down workplace fatalities. The workplace fatality rate per 100,000 workers declined from 1.5 for January to August 2022 (before HSP) to 0.8 for September 2022 – to-date, but the major injuries rate has not improved.

MOM will press on towards the WSH 2028 goal of keeping fatality rate at below 1.0 per 100,000 workers, and major injury rate at below 12.0 per 100,000 workers. The Multi-Agency Workplace Safety Taskforce (MAST) will retain some HSP measures and implement new measures to strengthen WSH ownership on a sustained basis and build a strong safety culture amongst all stakeholders.

Impact of HSP

Since the HSP, MOM has seen a decline in workplace fatality rate — workplace fatality rate per 100,000 workers decreased from 1.5 for January – August 2022 (before HSP) to 0.8 for September 2022 – to-date (HSP). This outperformed MOM's WSH 2028 target of 1.0. The major injury rate per 100,000 workers, however, worsened from 16.8 before HSP to 19.2 during HSP .

Notably, the HSP's impact across industries was uneven. Among the higher-risk industries, the Construction sector remained the top contributor in terms of absolute number of workplace fatal and major injuries but showed the most improvement for the fatality and major injury rates during the HSP – with the decrease in major injuries with a higher risk of fatality, the number of fatalities correspondingly reduced. In comparison, the fatal and major injury rate for the Manufacturing sector worsened, exceeding that for Construction. This indicates the need for more sector-specific intervention to improve workplace safety outcomes.

New SAFE measures for more sustainable WSH outcomes

Among the initiatives announced during the HSP was the setting up of MAST, comprising key sector lead agencies, which set out to identify measures to address the leading causes of workplace incidents, particularly in higher-risk industries. MAST will implement a set of SAFE (Safety Accountability, Focus and Empowerment) measures to further improve WSH outcomes.

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These SAFE measures aim to strengthen WSH ownership fundamentally and sustainably across the entire ecosystem — at the sectoral, company and worker level. These measures include:

Strengthen Ownership at Sectoral Level

- a) Require more stringent safety requirements in Government Procurement Entities' (GPEs) construction tenders, as well as introduce new measures such as a WSH Bonus Scheme, to align the interest of businesses to WSH.
- b) Require Video Surveillance System (VSS) at worksite locations where high-risk work activities are ongoing, for construction sites with project value ≥S\$5 million, to help companies better manage safety.
- c) Expand the Demerit Point System for the Construction sector to Manufacturing to deter WSH breaches and uplift standards.
- d) Impose legal duties on manufacturers and suppliers to ensure safe usage of more types of industrial machines, equipment and hazardous substances; labelling of organic combustible dusts; and requiring users of combustible dusts of prescribed amounts to notify MOM and their building owner/landlord.

Strengthen Ownership at Company Level

- e) Retain selected HSP measures such as requiring Chief Executives (CEs) to personally account to MOM for serious WSH lapses and take responsibility for WSH rectifications to strengthen corporate leaders' WSH accountability.
- f) Require CEs and Board Directors of all companies in higher-risk industries to attend the new Top Executive WSH Programme, to focus their attention on how to meet their WSH responsibilities.
- g) Provide an additional avenue for Small and Medium-sized Enterprises (SMEs) to consult and access resources on how to improve their WSH capabilities through SME centres and Business Advisors.

Strengthen Ownership at Worker Level

- h) Empower workers to take greater ownership of their own safety by equipping them with updated WSH know-how through a new online micro-learning component in the Safety Orientation re-certification assessment.
- i) Launch a National WSH campaign to encourage workers to report unsafe practices.

Details of the SAFE measures are in the Annex. These measures will be implemented progressively over the next 6-12 months to allow for industry consultation and lead time for companies where required.

To instil stronger tripartite ownership and accountability for WSH risks, MAST will be retained as a standing committee after HSP, with additional members incorporated. MAST will continue to study and implement further measures to foster a stronger WSH culture.

Launch of "Reporting Saves Lives" Campaign

Organised by the WSH Council, and supported by MOM, National Trades Union Congress and Singapore National Employers Federation, this year's WSH Campaign's tagline is "Reporting Saves Lives". The campaign seeks to build a stronger whole-of-society ecosystem to ensure workplace safety, by calling on:

- a) Employers to set up an internal reporting framework within their companies, to build a culture of trust between employers and workers where everyone watches out for one another, thereby reducing risks;
- b) Workers to proactively report any unsafe situations to their employers, union leaders, or if need be, to MOM; and
- c) Members of the public to report unsafe workplace situations to MOM, using the SnapSafe web-service (www.go.gov.sg/snapsafe).

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A safe work environment is fundamental to productivity, competitiveness, business continuity, and workers' well-being. All stakeholders – the Government, employers, workers, service buyers, suppliers and members of the public – must do their part to actively prevent workplace incidents. This will help to ensure safe and healthy workplaces for workers, and save lives.

ANNEX

DETAILS OF SAFE MEASURES

S/N	Measures	Details	Implementation Timeline
Strengthening WSH Ownership at Sectoral Level			
1	Retain MAST as a standing committee	<ul style="list-style-type: none"> Continue to drive the SAFE measures and develop further broad-based and sectoral measures to address leading causes of workplace incidents 	Immediate
2	Introduce more stringent safety requirements, and new measures in GPEs' tenders to incentivise good safety performance	<ul style="list-style-type: none"> Establish a set of harmonised WSH criteria for public construction and construction related projects to strengthen WSH ownership across all levels of main and sub-contractors (e.g. extend the Safety Disqualification framework to ensure that only contractors with a minimum safety performance participate in tenders) Require a minimum safety weightage for tender evaluation of public construction and construction related projects Introduce additional WSH requirements for public construction projects above a certain Estimated Procurement Value (e.g. a WSH bonus scheme to incentivise good safety performance) 	TBC
3	Expand Demerit Point System to Manufacturing sector	<ul style="list-style-type: none"> Deter WSH breaches in the Manufacturing sector, with the expansion of the Demerit Point System from Construction to Manufacturing Manufacturing companies that accumulate at least 25 Demerit Points for WSH contraventions (such as composition fine; Stop Work Order; and prosecution action taken for major injuries, dangerous occurrences, and fatality) within an 18-month period will be temporarily debarred from employing foreign employees 	Oct 2023
4	Expand the MAST membership	<ul style="list-style-type: none"> Take a more holistic approach to WSH, and drive sectoral measures and performance more effectively by expanding the composition of MAST to include the Ministry of Health, Industry Leaders, and the Labour movement 	By the end of 2023
5	Require Video Surveillance System (VSS) for construction sites with project value ≥ \$5million	<ul style="list-style-type: none"> Help companies better manage safety by requiring VSS for high-risk activities VSS is a network of cameras, monitors/display units and recorders for surveillance, identification of WSH risks, facilitation of incident investigation and corrective actions, and to potentially deter unsafe WSH behaviours 	Jun 2024

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S/N	Measures	Details	Implementation Timeline
Strengthening WSH Ownership at Sectoral Level			
6	Ensure safe use of machineries and combustible dust	<ul style="list-style-type: none"> Enhance existing WSH Regulations to require companies to comply with additional standards: <ul style="list-style-type: none"> Legal duties on manufacturers and suppliers of more types of industrial machines, equipment and hazardous substances, to ensure that these are inherently safe when used; and Labelling of organic combustible dusts and users of combustible dusts of prescribed amounts to notify MOM and their building owner/ landlord 	Jun 2024
Strengthening WSH Ownership at Company Level			
7	Require CEs to personally account for serious WSH lapses following serious or fatal workplace incidents (Only for selected cases)	<ul style="list-style-type: none"> Retained from HSP 	Immediate
8	Require companies with major injuries and Stop Work Order to engage external auditors to conduct a thorough review of their WSH processes		
9	Require CEs to attend the half day in-person Top Executive WSH Programme, for companies with serious WSH lapses following serious or fatal incidents		
10	Require CEs or Board Directors of all companies in higher-risk industries to attend the Top Executive WSH Programme (online or in-person)	<ul style="list-style-type: none"> Better equip corporate leaders in the Construction, Manufacturing, Transport & Storage and Marine industries to meet their WSH responsibilities and place clear accountability to improve WSH Curriculum for the Top Executive WSH Programme will include principles in the Approved Code of Practice on Company Directors' WSH Duties, root cause analysis, and knowledge on how to prevent accidents and ways to develop a company's WSH capabilities 	Required from Mar 2024 (In-person programme is already available and online programme will be ready in Sep 2023)

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S/N	Measures	Details	Implementation Timeline
Strengthening WSH Ownership at Sectoral Level			
11	Ramp up Enhanced Workplace Health Surveillance (WHS+) programme for noise	<ul style="list-style-type: none"> Detect exposure to excessive noise and reduce workers' risk of noise-induced deafness by requiring all companies identified to have higher risk for noise to: <ul style="list-style-type: none"> Conduct workplace noise monitoring; and Send their workers exposed to excessive noise for annual audiometric examinations 	May 2023
12	Provide more support to SMEs through SME Centres	<ul style="list-style-type: none"> Provide an additional avenue for SMEs to seek consultation on WSH matters and gain access to WSH resources to improve their WSH capabilities, such as bite-sized WSH guidance resources SMEs will also be informed about available capability-building programmes like StartSAFE and bizSAFE, as well as upcoming WSH events and announcements 	Jun 2023
Strengthening WSH Ownership at Worker Level			
13	Launch annual National WSH Campaign to enhance safety reporting	<ul style="list-style-type: none"> Encourage employers to facilitate internal company reporting for WSH and workers to report unsafe workplace practices. MOM has also made available three channels for ease of reporting via: <ul style="list-style-type: none"> MOM's FWMOMCare app; Unions; and SnapSafe, a dedicated page on MOM's website 	May 2023
14	Introduce online micro-learning component to Safety Orientation Course recertification assessment	<ul style="list-style-type: none"> Enhance safety training for workers in higher-risk industries by introducing a new online micro-learning component to Safety Orientation Course recertification assessment. This comprises modules based on high-risk work activities, such as work at height, vehicular safety, STF and machinery safety, starting with the Construction sector and expanding subsequently to Marine and Metalworking 	Jan 2024
Continue Enforcement Efforts			
15	Double the quantum for Composition Fine from a minimum of S\$1,000 to S\$2,000 per WSH lapse	<ul style="list-style-type: none"> Retained from the HSP 	Immediate

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Commissioner For Labour Implements Tripartite Cluster for Waste Management's Recommended Wage Increases and Mandatory Annual Bonus

From 1 July 2023, the Commissioner for Labour will implement recommendations by the Tripartite Cluster for Waste Management (TCWM) for the Waste Collection and Materials Recovery sub-sectors, comprising (i) a six-year schedule of annual wage increases from 1 July 2023 to 30 June 2029

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under the Progressive Wage Model (PWM) and (ii) the implementation of a mandatory annual bonus.

Implementation of six-year schedule of annual wage increases and a mandatory annual bonus

The PWM requirements will be implemented through the National Environment Agency (NEA)'s licensing regimes, and will be applicable to all appointed Public Waste Collectors, licensed General Waste Collectors and licensed General Waste Disposal Facilities.

With reference to the recommendations of the TCWM report, the following will be implemented:

- **A six-year schedule of wage increases from 1 July 2023 to 30 June 2029.** The scheduled sustained wage increases reflect a strong tripartite consensus to raise the wages of waste management workers in the Waste Collection and Materials Recovery sub-sectors, while providing service providers and buyers with greater certainty in business and contracting matters.
- **A mandatory annual bonus (PWM Bonus), effective from 1 January 2024.** The PWM Bonus will be paid out to eligible full-time and part-time resident waste management workers who have worked for the same employer for 12 months. This will enable employers to better attract and retain their workers, and incentivise employers to increase productivity by investing in the training of their workers.

For waste management companies that do not comply with the PWM requirements, NEA and the Ministry of Manpower (MOM) will conduct investigations and take the necessary enforcement actions.

MOM will complement NEA's licensing frameworks by leveraging its Work Pass System to ensure compliance with the PWM requirements. Waste management companies will be required to pay the required PWM wages to eligible workers, in order to hire any new foreign workers.

For further details on the enhanced wage schedule, the definitions of each job role under the Waste Management PWM, and the PWM, please refer to the reports issued by the TCWM at www.ntuc.org.sg/tripartiteguidelines.

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SOUTH KOREA 01 JAN 2023	<p>Increase in the Minimum Wage pursuant to the Notice issued by the Ministry of Employment and Labor regarding the Minimum Wage Act</p> <p>Pursuant to Article 6(4) and Article 10, and Notice of the 2023 Minimum Wage, the minimum wage for 2023 has been increased to KRW 9,620, which is a 5.0% increase compared to 2022 (the 2022 minimum wage was KRW 9,160).</p> <p>More...</p>
SOUTH KOREA 01 JAN 2023	<p>Amendment to the Act on the Collection of Insurance Premiums, etc. for Employment Insurance and Industrial Accident Compensation Insurance</p> <p>In order to allow platform operators for gig workers (e.g., food delivery service workers, drivers, etc.) to report employment insurance, and withhold/pay insurance premiums for gig workers (even though platform operators are not employers of the gig workers who provide services to customers arranged through the platforms), the Amendment enables provision of insurance-related business expenses to platform operators that process/carry out insurance registration work for gig workers.</p> <p>More...</p>
SOUTH KOREA 01 JAN 2023	<p>Amendment to the Enforcement Decree of the Employment Insurance Act</p> <p>The Employment Insurance Act also applies to foreign workers with non-professional employment (E-9 visa) and visiting (H-2 visa) status for workplaces with less than 10 full-time workers.</p> <p>More...</p>
SOUTH KOREA 01 JAN 2023	<p>Amendment to the Enforcement Rule of the Occupational Safety and Health Act ("OSHA")</p> <p>Wording: Under the Amendment, companies must provide safety and health education to construction daily workers in accordance with the training contents set forth in Item 2 of Annex 5 of the Enforcement Rules of the OSHA</p> <ul style="list-style-type: none"> A. Types of construction work (construction, civil engineering, etc.) and construction procedures; B. Risk factors and safety and health measures by type of industrial accident; C. Status of safety and health management system and rights and obligations of workers related to occupational safety and health). <p>More...</p>
SOUTH KOREA 12 JAN 2023	<p>Amendment to the Industrial Accident Compensation Insurance Act</p> <p>Compensation for industrial accidents for congenital diseases caused to children due to exposure to harmful or risk factors during pregnancy has become available under the Amendment.</p> <p>More...</p>
SOUTH KOREA 03 FEB 2023	<p>Amendment to the Enforcement Decree of the Act on the Employment, etc. of Foreign Employees</p> <p>Prior to the Amendment, private businesses engaged in farming and fishing with less than 5 employees were permitted to obtain employment permits for foreign employees without subscribing to the industrial accident insurance as the industrial accident insurance did not apply to such businesses. This practice had to change due to the recent high accident rate. Under the Amendment, in order to obtain employment permit for foreign employees, such businesses must either (i) subscribe to the industrial accident insurance or accident insurance for fishing vessel crew members, or (ii) submit a letter</p> <p><i>Continued on Next Page</i></p>

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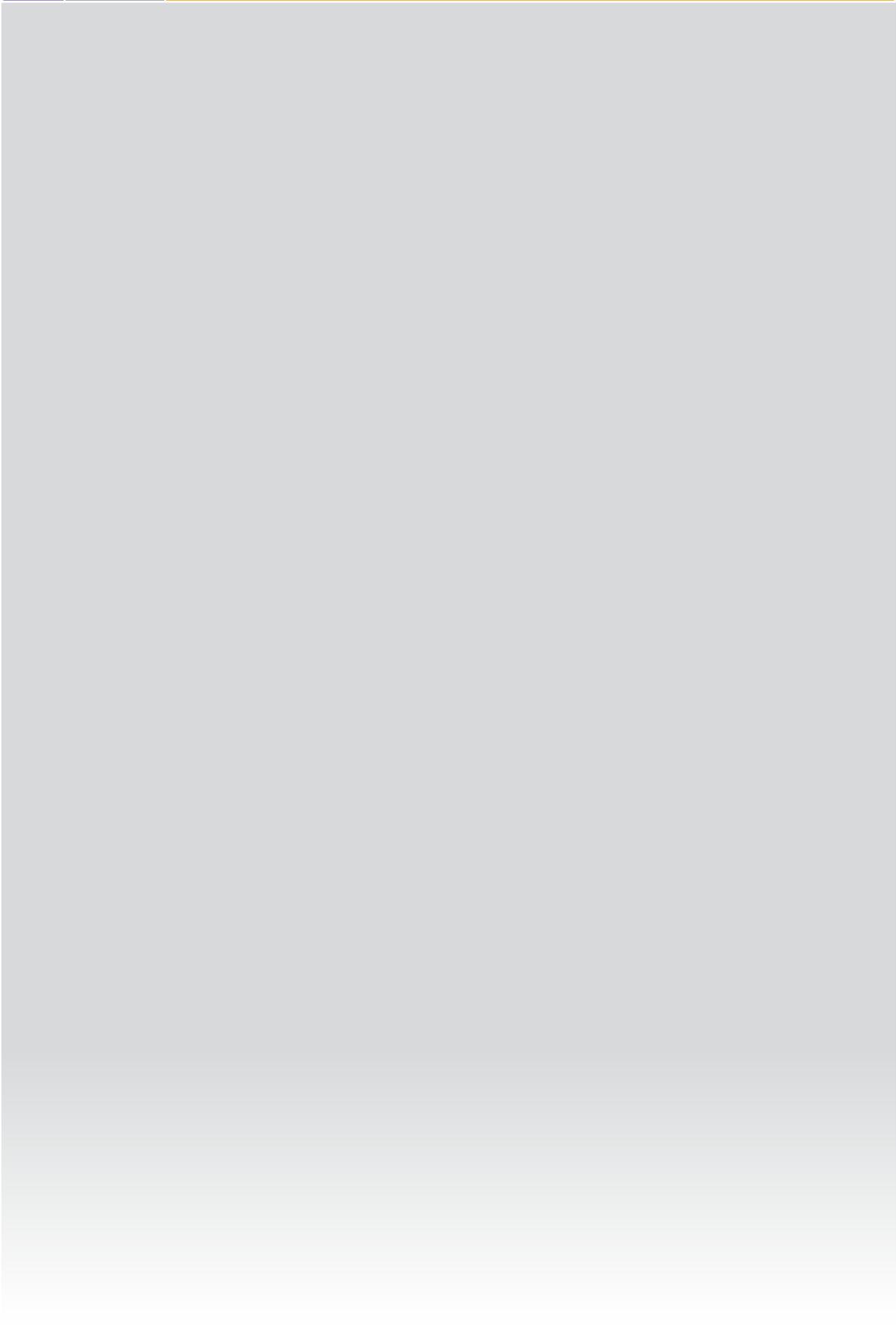
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of commitment to subscribe to safety insurance for farmers and fishermen in order to obtain employment permit for foreign employees.

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TAIWAN 19 JAN 2023	<p>Definition of "daily" in Article 18 of the Act of Gender Equality in Employment</p> <p>The employer is obliged, among others, to provide 60 minutes of breastfeeding time within the "daily" 8-hour workday for an employee who needs to personally feed her babies who are less than two years old or needs to collect breast milk, and to provide 30 minutes of breastfeeding time for the said employee who works overtime for 1 hour or more than the "daily" 8-hour workday. This letter clarifies that the term "daily" as used above refers to work days, rest days and holidays for attendance.</p> <p>More...</p>
TAIWAN 09 FEB 2023	<p>The Ministry of Labor drafted the "Guiding Principles Regarding Agreements on Wage Payment Dates and Amounts" to promote the reasonable stipulation of wage payment terms between the employer and the employee</p> <p>Article 23 of the Labor Standards Act already provides that unless the parties have agreed otherwise (or if wages are being paid monthly), wages shall in principle be paid at least twice per month, with the dates clearly stipulated; even if the parties have agreed otherwise, wages still must be paid at least once every month. As such, the wage payment date should generally be no more than 15 days after the amount to be paid for the relevant wage period has been determined; the local competent authority has the authority to require the employer to correct the non-compliance if found. If the parties had agreed on quarterly, biannual or annual settlements of certain bonuses or stipends, they may be paid according to such stipulations, but the terms should still be reasonable.</p> <p>Regarding payments of increased wages for work performed outside of regular work hours or on holidays, if the employer and the employee had stipulated a specific wage payment date, the payment for the increased wages shall be made on the closest wage payment date after the work occurred or combined with the wages for that month. If the parties have stipulated other wage payment dates, wages still must be paid at least once every month and no more than 15 days after the amount to be paid for the relevant wage period has been determined.</p> <p>In cases where the wage payment date falls on a holiday, the employer may arrange for advance payment if the wages are being paid by financial institution remittances into a bank account, but there is no issue for the payment to occur on the holiday as originally stipulated. If the wages are being paid in cash, the employer shall arrange for advance payment; if that is not possible, the employer must make the payment on the originally stipulated date without any unilateral postponements.</p> <p>More...</p>
TAIWAN 01 MAY 2023	<p>Amendment of Article 9 of the Leave-Taking Regulations of Workers for better protection of female employees</p> <p>Pursuant to Article 21, Paragraph 2 of the Act of Gender Equality in Employment, the Ministry of Labor amends Article 9 of the Leave-Taking Regulations of Workers to prohibit an employer from withholding an employee's full-attendance bonus if the employee has suffered a miscarriage after less than three months of pregnancy and requests to use ordinary sick leave instead of pregnancy leave (maternity leave).</p> <p>More...</p>



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Thailand's New Labor Law on Work-from-Home Arrangements

On March 19, 2023, Thailand's new work-from-home (WFH) legislation amending the Labour Protection Act (No. 8) B.E. 2566 (2023) was published in the Government Gazette. It came into effect on April 18, 2023.

The amendment aims to enhance employee protections to accord with current global standards, provide alternative working arrangements for employers and employees, increase workforce efficiency, and strengthen employees' job security and better their quality of life.

The new WFH legislation allows employers and employees to reach agreements that permit employees to work remotely.

Thailand's Work-from-Home Legislation to Take Effect - Tilleke & Gibbins

Thailand Passes New Labor Law on Work-from-Home Arrangements - Tilleke & Gibbins

Thailand Considers New Labor Law on Work-from-Home Arrangements - Tilleke & Gibbins

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There are no significant policy, legal or case developments within the employment space during 2023 H1.

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