

**Amendments to the Employment Act 1955**

**Introduction**

Pursuant to the Employment (Amendment) Act 2022, significant amendments to the Employment Act 1955 (“**EA 1955**”) will come into force on 1 September 2022.

The amendments include the First Schedule of the EA 1955 in accordance with the Employment (Amendment of First Schedule) Order 1955 which was gazetted on 15 August 2022.

We set out below a summary of the amendments.

<b>Pre-Amendment</b>	<b>Areas of Amendment</b>	<b>Post Amendment</b>
Applicable only to employees earning below of RM 2,000.	<b>APPLICABILITY OF EMPLOYMENT ACT</b> (First Schedule, EA 1955)	All employees who have entered into contract of service save for certain sections in the EA 1955 relating to overtime payments and termination benefits, which will not apply to employees earning more than RM 4,000.00 a month.
In the event of hospitalisation, an employee is entitled to 60 days paid	<b>MINIMUM NUMBER OF PAID SICK LEAVE</b>	In the event of hospitalisation, an employee is entitled to 60 days paid leave irrespective of any sick leave taken.

leave minus any sick leave taken.	(Section 60F, EA 1955)	
60 days	<b>PAID MATERNITY LEAVE</b> (Section 37(1)(d)(ii), EA 1955)	98 days
None	<b>PAID PATERNITY LEAVE</b> (Section 60FA (1), EA 1955)	7 days
<p>Pregnant employees can only be terminated:</p> <p>(a) Prior to 90 days post maternity leave due to illness arising out of her pregnancy which renders her unfit to work; and</p> <p>(b) Due to closure of the employer's business.</p>	<b>PROTECTION TO PREGNANT EMPLOYEES</b> (Section 41A (1), EA 1955)	Pregnant employees can only be terminated in the event there is breach of employment contract, misconduct and/or closure of employer's business.
48 hours per week	<b>MAXIMUM WEEKLY WORKING HOURS</b> (Section 60A (1), EA 1955)	45 hours per week
None	<b>FLEXIBLE WORKING ARRANGEMENTS</b> (Section 60P (1) and 60Q (1), EA 1955)	<p>Employee may apply to employer to vary the hours, days and place of work.</p> <p>An employer must provide its decision within 60 days. In the event, the application is</p>

		rejected, the employer must provide reasons.
Discrimination complaint is limited to complaint by local employee against foreign employee in respect to terms and conditions of employment.	<b>POWER TO INVESTIGATE COMPLAINTS ON DISCRIMINATION</b> (Section 69F, EA 1955)	The Director General of Labour is now empowered to inquire and deliver orders on complaints in respect of discrimination between employees.
None	<b>NOTICE ON SEXUAL HARASSMENT</b> (Section 81H, EA 1955)	Employers are required at all times to exhibit at the place of employment, a notice to raise awareness on sexual harassment.
Notification of hiring of foreign employees to the Director General of Labour.	<b>SPECIAL REQUIREMENTS IN RESPECT TO FOREIGN WORKERS</b> (Section 60K (1), EA 1955)	An employer must obtain approval from Director General of Labour before employing foreign employees.  Hiring of foreign employees without the approval of the Director General of Labour could result in fine not exceeding RM 100,000.00 or imprisonment not exceeding 5 years, or both.
None	<b>TERMINATION OF FOREIGN EMPLOYEES</b> (Section 60 KA (1) and (2), EA 1955)	An employer must inform the Director General of Labour of the termination of any foreign employee, as follows: (a) Within 14 days in the event of termination of employment by the foreign employee or abscondment

		<p>of the foreign employee; and</p> <p>(b) Within 30 days in the event of expiry of employment pass and deportation.</p>
None	<p><b>PRESUMPTION OF EMPLOYEE AND EMPLOYER RELATIONSHIP</b> (Section 101C, EA 1955)</p>	Provides for a set of presumptions of an employee and employer relationship.
None.	<p><b>EMPLOYERS' LIABILITY FOR PAYMENTS BY WAY OF COURT ORDER</b> (Section 87A, EA 1955)</p>	<p>In the event that an employer is convicted with any offence relating to payments to employees, the court is empowered to make an order for such payments to the employees.</p> <p>If the employer fails to abide by the court order in respect of payment, the affected employee may make an application to obtain the outstanding payment by way of warrant to levy the employer's property.</p>
The general penalty for an offence under EA 1955 previously was RM10,000.	<p><b>INCREASE OF PENALTY</b></p>	The penalty has been increased to RM50,000.

## **Conclusion**

The Amendments to the EA 1955 is set to change the employment landscape in Malaysia with effect from 1<sup>st</sup> September 2022. Not only will the Act apply to all employees irrespective of wages but the amendments will see the rights of employees better protected in terms of flexible working arrangements and leave entitlements.

The amendments will also provide better protection to combat sexual harassment at the workplace.

Further, tighter regulations would come into effect in so far as the hiring of foreign employees are concerned and errant employers could face stiffer penalties.

It is hoped that the amendments to the EA 1955 would ensure better employer-employee relationships, which in turn would lead to better productivity and economic gains.

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