

Malaysia

Worker Classifications

The law in Malaysia does not distinguish between different categories of Workers. All Workers are covered by the Employment Act of 1955 (EA 1955) and special rules are applied specifically to those earning RM4,000 or less per month, manual laborers inclusive of their supervisors, those involved in vehicle maintenance, domestic workers, and those working on a vessel in any capacity.

Fixed Term Contracts

There must be a genuine need for a fixed-term contract (e.g. a specific project) otherwise it may be deemed indefinite. It must be for a minimum period of one month and a maximum period of two years. It can be renewed up to the two-year limit. However, continuous renewals or extensions may also lead to a determination that it was indefinite. It may not include a probation period. Generally, if a fixed-term contract is unilaterally terminated by the employer before it concludes, the Worker is likely entitled to the wages that would have otherwise been earned.

Probationary Periods

There is no statutory probationary period in Malaysia. However, it is common practice to include a three to six-month probationary period to assess an employee's fitness for the position. A 'probationer' has the same rights as an employee such that the employment cannot be terminated without just cause or adequate notice; albeit, the threshold for cause is generally lower for probationers.

Holidays

In Malaysia, Workers must recognize 11 paid public holidays. Most Workers enjoy all 18 to 20 holidays per year. Workers are entitled to Ad Hoc public holidays that are appointed under Section 8 of the Holidays Act of 1951. For Workers who are not eligible for payments for Holidays under the EA, any additional remuneration provided for public holidays is agreed to by contract. Overtime worked on a public holiday is compensated at 300% for eligible Workers under the EA.

Vacation

Annual leave entitlements for Workers are based on years of service as follows: 8 days for 1-2 years of service; 12 days for 2-5 years of service; and 16 days for 5+ years of service. Whether leave can be carried forward or cashed out is determined by the employment contract. Most Workers are permitted to carry over unused leave to March of the next year. Accrued but unused leave must be paid at the time of termination. However, it can be paid yearly to avoid carry over.

Sick Leave

Paid sick leave entitlement is governed by the EA 1955 for all Workers. Sick leave entitlement is between 14 – 22 days per calendar year and where hospitalization is necessary, 60 days of paid sick leave is applicable.

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Working Hours

Work hours are regulated by the EA with a maximum work week of 45 hours. A standard workweek is Monday through Friday.

All workers are entitled to one day of rest per week, payment for this day of rest is included in the monthly salary.

Overtime

Under the EA, only Workers who earn RM4,000 or less per month or those who are engaged in or who supervise manual labor regardless of how much they earn, and those operating vehicles are entitled to overtime payments.

Overtime payments are based on when the work occurs. Hours worked beyond the 8 hour daily standard are paid at 1.5x the hourly rate of pay. Hours worked on a rest day when the period of work does not exceed half of a regular work day are paid at .5x the ordinary rate of pay, if the hours worked are more than half but do not exceed the regular hours, they are paid at 1 days wages; if they exceed the normal hours, they are paid at 2x ordinary wages.

Overtime is limited to 1 hour (for a total of 9 hours worked) in any one day, 45 hours in a week, or 104 hours in a month.

Mandatory Bonuses

Although not required, it is customary to offer a 13th-month salary in Malaysia to be paid at year-end.

Termination

except in cases of gross misconduct, an employer can terminate an employment contract at any time for a valid reason by giving a valid reason, adequate notice, and in some cases severance. Termination processes are subject to vary on a case-by-case basis. The length of notice depends on the length of the Worker's service as outlined below: 0 - 2 years of service: four weeks' notice; 2 - 5 years of service: six weeks' notice; 5+ years of service: eight weeks' notice. It is common practice in Malaysia for notice to be provided three months before termination. Pay instead of notice is permitted.

Resignation

Workers must follow the same notice requirements as employers in order to end an employment arrangement. They do not need to provide a reason for resigning.

Other End Of Employment Rules

Severance is payable if a termination is due to retrenchment or closure of a business.