Asia-Pacific employment law bulletin Horizon-scanning

People and Reward

2026

FRESHFIELDS

Welcome to our APAC bulletin for 2026.

Welcome to our APAC bulletin for 2026. The past year saw significant labour law reform across a number of APAC countries, with developments in 2025 setting the direction of travel for the year ahead.

In some jurisdictions, newly elected leaders and shifting political priorities prompted a re-examination of workplace regulations, most notably in Australia and South Korea. Elsewhere, long-awaited reforms moved from proposal to legislation, meaning that 2026 will be a year in which employers begin to feel the impact of substantial new obligations as these changes take effect.

In preparing this bulletin, the Freshfields APAC team has valued the opportunity to engage in wide-ranging discussions with colleagues across our regional offices and our network of Stronger Together firms, helping bring together diverse perspectives.

Whilst the issues facing our clients across the region are inevitably diverse, we note three key trends:

- A heightened focus on ***workplace behaviour and 'non-financial misconduct'***. Reflecting trends in the US, UK, Australia and Continental Europe, a number of jurisdictions in Asia are taking bolder steps to introduce or strengthen regulation to combat workplace discrimination, bullying and the mental wellbeing of individuals in the workplace. Measures such as **Japan's introduction of criminal liability for retaliation against whistleblowers and Hong Kong's tightening of mandatory reference checking requirements** signal a clear regulatory expectation: accountability for behaviour and culture is now central to modern employment governance.
- Reform of ***post-termination restrictive covenants***. For employers with operations in **China** in particular, close attention should be paid to reforms affecting the enforcement of post-employment restrictive covenants. These changes will narrow the category of employees who may be subject to such provisions and place more onus on the employer to justify their scope, duration and application.
- An ongoing focus on the ***gig economy***. Courts and legislatures continue to redefine and strengthen the rights and protections afforded to platform based and contingent workers, **New Zealand**, in particular, is moving towards greater clarity on the status of gig workers and the obligations of organisations engaging them, while **Hong Kong** has signalled its intention to **introduce proposals strengthening protections for digital platform workers**.

Our 'jurisdiction to watch' for 2026 is **India**. The long-awaited consolidation and reform of the complex tapestry of labour regulations is expected to bring much change for international employers with Indian operations. How the four new Labour Codes will be interpreted and applied across the country remains a source of active debate among multinational employers and local practitioners alike, and will shape the compliance agenda for the year ahead.

We hope you find this bulletin insightful and practical. Please do reach out to any of our team for further information or to discuss these developments.

Freshfields Asia

Hong Kong

Stephanie Chiu
Counsel
Hong Kong
T +852 2846 3491
E stephanie.chiu
@freshfields.com

Shirley Lam
Associate
Hong Kong
T +852 2913 2628
E shirley.lam
@freshfields.com

Emily Rigler-Gilingham
Associate
Hong Kong
T +44 20 7785 2365
E emilyriglergillingham
@freshfields.com

Vietnam

Ha Hoang An
Counsel
Hanoi
T +84 2 4382 47422
E ha.an
@freshfields.com

Hai Dang Nguyen
Associate
Hanoi
T +84 2 4382 47422
E hai.nguyen
@freshfields.com

China

Fan Li
Senior Associate
Shanghai
T +8621 6105 4128
E fan.li
@freshfields.com

River He
Senior Associate
Shanghai
T +8621 6105 4134
E river.he
@freshfields.com

Vivian Wang
Legal Consultant
Beijing
T +8610 6535 4517
E vivian.wang
@freshfields.com

Tingli Huang
Senior Associate
Shanghai
T +8621 5820 5011
E tingli.huang
@ruiminlaw.com

Extended team

Kathleen Healy
Partner
London
T +44 20 7832 7689
E kathleen.healy
@freshfields.com

Regina Erie
Senior Associate
Washington
T +44 20 7785 5811
E regina.erie
@freshfields.com

Holly Insley
Partner
London
T +44 20 7785 2237
E holly.insley
@freshfields.com

Rachel Harris
Associate
London
T +44 20 7716 4049
E rachel.harris
@freshfields.com

Global

Sarah Rohmann
Counsel, Global Head of Practice Development
Dusseldorf
T +49 211 4979 453
E sarah.rohmann
@freshfields.com

Laura Llangozi
Senior Knowledge Lawyer
Paris
T +33 1 44 56 29 50
E laura.llangozi
@freshfields.com

Welcome

01
Australia

Australia's employment and labour laws have undergone significant change in recent years. Although a number of changes have been proposed or enacted as of 1 July 2025, following the victory in 2025 by the federal Labor Party, no further major industrial relations or employment reforms have been announced and the pace of legislative change has slowed in 2025. Yet, the courts have delivered a series of decisions materially impacting employer obligations, particularly around contractual clauses and redundancy processes. This evolving legal landscape is expected to continue impacting employers into 2026.

Key issues for employers to be looking at during 2026 include:

- Adapting to the minimum wage and superannuation guarantee (see below) increases, as well as 'payday' superannuation.
- Reviewing employment agreements containing non-competition and set-off clauses.
- Reviewing redundancy processes, flexible work policies and approval practices.
- Considering emerging risks such as managing sex-based harassment and psychosocial safety complaints.

Increases to minimum rates of pay and the superannuation guarantee

The minimum wage and modern award rates (additional minimum pay rates paid to certain categories of workers) in Australia increased by 3.5 per cent from 1 July 2025. Whilst this is not out of step with usual annual increases, the increases were also paired with a 0.5 per cent increase to the superannuation guarantee, bringing this to 12 per cent of ordinary time earnings. The changes are also highly relevant in light of the decision discussed below regarding set-off clauses.

There will likely be further increases to rates of pay in 2026; however, superannuation has now reached its legislated maximum following year-on-year increases since 2021.

Casual employee and conversion

In a landmark decision involving two large supermarket chains,[1] the Federal Court of Australia (***Federal Court***) found that an employer can only set-off an employee's entitlements under the applicable Award *within* a single pay period. The decision confirms that overpayments in one pay period cannot be used to cover a shortfall in another pay period. Employers utilising set-off clauses in employment agreements must ensure employees are paid their full minimum entitlements *every pay period*. This can be very significant for employers using all-inclusive salaries, particularly where employees work variable or unsociable hours.

The Federal Court also commented on employers needing to keep accurate and readily accessible records of hours worked by employees, including salaried staff who may earn overtime or other penalty rates. This emphasised the compliance risk with not having comprehensive time and attendance and payroll systems in place.

Scope of employer obligations in redundancy processes

The High Court of Australia's unanimous ruling in *Helensburgh Coal Pty Ltd v Bartley* [2025] HCA 29, which upheld the Federal Court's interpretation of '*genuine redundancy*' under section 389 of the *Fair Work Act 2009* (Cth) (***FW Act***), will affect employers planning operational restructures, especially those relying on third-party outsourcing.

The decision requires employers to actively review and assess redeployment opportunities within their organisation and associated entities, before commencing any restructuring process. Additionally, particular attention must be given to existing outsourcing or other contractual arrangements.

The High Court also confirmed that the Fair Work Commission (***Commission***) has the right to examine and inquire about the scope of redeployment opportunities. While the Commission is unlikely to expect employers to make substantial workplace changes to create or secure a role for an employee, it

[1] *Fair Work Ombudsman v Woolworths Group Limited; Fair Work Ombudsman v Coles Supermarkets Australia Pty Ltd; Baker v Woolworths Group Limited; Pabalan v Coles Supermarkets Australia Pty Ltd* [2025] FCA 1092.

did consider whether it was reasonable for an employer to adjust its service contracts and arrangements with third parties to allow employees to assume duties currently performed by contractors.

Employer obligations when considering an employee's work from home request

The Commission recently provided commentary on an employer's obligations when considering an employee's request for flexible work arrangements (**FWR**), after determining that a long-serving employee could continue to work exclusively from home on a permanent basis.[2] In this case, the employer had not followed the required statutory process and had failed to provide compelling reasons why the employee could not adequately complete their duties from home.

While the outcome of a request for FWA will ultimately turn on the specific circumstances, this decision indicates large employers should strictly follow the procedural steps set out in legislation before refusing a FWA request. Employers must also be able to provide evidence to support a refusal on the basis of reasonable business grounds. Furthermore, employers need to genuinely consider the impact that the refusal would have on the employee and matters such as their caring responsibilities and financial situation.

Sex-based harassment

The Federal Court recently handed down the first decision[3] to consider the meaning of '*sex-based harassment*' under the new legislation. This is a new category of harassment that is different but related to sexual harassment and sex discrimination and occurs where someone:

- subjects another person to unwelcome conduct of a demeaning nature; and
- does so because of the person's sex or a characteristic that is generally imputed to persons of that sex.

Although ultimately the sex-based harassment allegations were not upheld, the decision is helpful in determining what may constitute harassment on the basis of sex. While the presiding judge *was* persuaded there was a pattern of sexist behaviour in the workplace, he was not satisfied that the behaviour was directly '*in relation to*' the complainant, as required by the legislation. The Court further commented that if the demeaning comments had been made about or directed to the complainant, harassment on the ground of sex would have likely been made out.

Victorian OHS (Psychological Health) regulations

On 1 December 2025, the Occupational Health and Safety (Psychological Health) Regulations 2025 (***Regulations***) were implemented as standalone regulations. The Regulations codified the existing duty imposed on Victorian employers to ensure the psychological health of their employees and requires Victorian employers to:

- identify psychological hazards;
- control, eliminate or minimise risks associated with a psychological hazard; and
- review risk control measures.

The Regulations provide examples of psychosocial hazards, including but not limited to aggression or violence, bullying, exposure to traumatic events or content, poor support, remote or isolated work, or sexual harassment. The introduction of the Regulations is part of a broader push in Australia to build awareness around psychosocial hazards and ensure these are treated as seriously as physical hazards and follows similar changes in other states/territories.

Looking ahead

We anticipate continued change in the employment law landscape in 2026, including the following.

- Introduction of **'payday' superannuation**: From 1 July 2026, employers will need to pay employees their superannuation guarantee payments (pension contributions) on payday, at the same time as their salary and wages. Currently, superannuation payments are required to be made quarterly, and the change may place cash-flow pressures on some businesses as superannuation payments will need to be made within a seven calendar day window after each payday.
- Expanded **gender pay gap reporting**: After the 2023 reforms to the Workplace Gender Equality Agency, employers should be aware of the new reporting requirements, making employer-level pay gap data publicly available. In 2026, employers must also demonstrate progress towards gender equality by picking three targets from a list of 19 options.

[2] *Karlene Chandler v Westpac Banking Corporation* [2025] FWC 3115

[3] *Magar v Khan* [2025] FCA 874.

02
Cambodia

Cambodia has recently introduced significant updates to its labour laws, aimed at enhancing protections for female employees and modernising dispute resolution procedures. These legislative changes reflect the government's ongoing commitment to improving employee welfare and ensuring a clearer, more efficient framework for managing workplace issues in Cambodia.

Special protection of female employees

On 7 February 2025, the Ministry of Labour and Vocational Training issued Guideline 015 on Special Protection for Pregnant Women (***Guideline 015***) that strengthens protections for pregnant employees and new mothers.

Previously, the Labour Law provided termination protection primarily during maternity leave. In accordance with Guideline 015, pregnant employees and new mothers within one year after childbirth are now afforded enhanced protection against termination, prohibiting employers to terminate the employment contracts of these female workers during said period, except in cases of serious misconduct. In addition, employers must obtain prior approval from a labour inspector before proceeding with the termination. Further, employers are now forbidden from suspending the employment contracts of pregnant employees and new mothers during pregnancy and for nine months following maternity leave, unless the suspension applies broadly to an entire department or the entire workforce. Prior to the issuance of Guideline 015, there was no specific rule providing special protection against contract suspension for pregnant employees or new mothers.

Guideline 015 further clarifies the timing of maternity leave payments. Employers are now required to pay the full maternity leave entitlement in advance, before the employee commences maternity leave.

Finally, Guideline 015 encourages employers to automatically renew fixed term contracts for pregnant employees during pregnancy and for up to one year after delivery, to ensure continuity of employment protection during this period.

New development of labour dispute resolution procedures

The Ministry of Labour and Vocational Training (***Ministry***) issued two new regulations, Prakas 073 on Procedures for Resolving Individual Disputes dated 4 March 2025 and Prakas 074 on Procedures for Resolving Collective Labour Disputes dated 4 March 2025 aiming to modify the previously established procedures for resolving labour disputes.

By way of background, Cambodia's dispute resolution process has (up to) three steps:

1. Conciliation at the ministry level, and
2. Arbitration at the Arbitration Council, and/or
3. Litigation in court.

The new regulations mainly clarify the ministry-level process which includes a four-step process. When a complaint is filed with the Ministry, the first step is an initial review of the complaint, during which the Ministry may either decide to proceed with conciliation or dispatch a labour inspector to conduct a workplace inspection. If conciliation is initiated, the second step is an inquiry session, in which the conciliator invites the parties to attend separate meetings to provide information and supporting documents relating to the (defence of the) claims. The third step is the conciliation session, during which the conciliator facilitates discussions between the two parties in an attempt to reach a mutually acceptable settlement. For individual disputes, if the parties are unable to reach an agreement through conciliation, they may voluntarily and jointly request reconciliation (fourth step). Where reconciliation is unsuccessful, the parties may either request arbitration or proceed with court proceedings. For collective labour disputes, if the parties are unable to reach an agreement through conciliation at the Ministry level, the Minister of the Ministry will refer the case to the Arbitration Council for further proceedings, noting that arbitration process is compulsory for collective disputes.

The new regulations introduce several significant changes to the labour dispute resolution framework:

a. individual disputes may now be referred to arbitration: individual labour disputes may now be referred to arbitration if conciliation at the ministry level fails. This change aligns with the 2021 amendments to the Labour Law, which expanded the scope of arbitration beyond collective labour disputes. Previously, only

collective disputes could be submitted to the Arbitration Council. However, the Ministry has not yet issued detailed procedural rules governing the handling of individual disputes by the Arbitration Council;

b. inspections may be conducted when a dispute is filed: under the new rules, upon the filing of a complaint, the Ministry may either proceed with conciliation or dispatch a labour inspector to conduct an inspection at the enterprise. Where non-compliance is identified, administrative penalties may be imposed immediately. As a result, labour inspections may now arise directly in connection with a dispute filing, rather than as a separate compliance exercise;

c. stricter rules on void complaints: a complaint will be deemed void where a claimant fails to provide the required information or does not attend the conciliation meeting. Void complaints cannot be reconsidered or referred to arbitration, underscoring the importance of full participation and procedural compliance by both parties throughout the dispute resolution process; and

d. monetary penalties for failure to attend conciliation: where a party fails to attend a conciliation session without a valid reason, the non-attending party may be subject to a monetary fine of approximately US$1,220. This measure is intended to promote good faith participation in conciliation proceedings and to discourage unnecessary delays.

Businesses are advised to understand and cooperate fully with the labour dispute resolution process in the event that a complaint is filed, to ensure procedural compliance, avoid the risk of penalties, and facilitate an efficient and timely resolution of the dispute.

03 China

The key change to be aware of in China is the publication of significant new guidance refining how employers may use noncompete agreements. The guidance aims to curb past misuse of restrictive covenant provisions and to provide clarity on enforcement. Recent judicial interpretations and regulatory guidelines set clearer standards on scope, compensation, and applicability, signalling a shift toward more balanced and compliant noncompete practices for employers and employees alike.

Non-competes – an evolving landscape

China's legal landscape regarding non-compete arrangements is continuing to evolve. Since 2008, the Employment Contract Law has permitted employers to execute non-compete agreements with employees in designated positions, enforceable for up to two years following the termination of employment. Where employees breach non-compete obligations, they are subject to liquidated damages as stipulated in these agreements – in other words, they will be required to pay their employer a fixed amount of liquidated damages for the breach. However, the broad wording of the relevant legal provisions has resulted in misuse and frequent disputes in practice. In response, Chinese authorities have recently introduced a series of new guidance aimed at clarifying and restricting inappropriate use of non-compete agreements, which are expected to influence future enforcement practices.

Compliance Guidelines

The latest guidance comprises 'sample cases' published by the Supreme People's Court in August 2025 and its *Interpretation (II) on Several Issues Concerning the Application of Law in the Trial of Labor Dispute Cases* effective September 1, 2025, as well as the *Compliance Guidelines for Enterprises Implementing Non-Compete Agreements* released by the Ministry of Human Resources and Social Security on September 4, 2025 (***Compliance Guidelines***).

In particular, the Compliance Guidelines provide comprehensive and granular guidance on implementing non-compete agreements for the first time. While the Compliance Guidelines themselves are not mandatory requirements, they have already been referenced in court decisions concerning liquidated damages, indicating that they reflect the regulator's expectations for the enforcement of non-compete agreements. Consequently, companies are advised to adopt these Compliance Guidelines as best practices and their internal policies to ensure alignment.

Key highlights of the latest guidance include:

- Non-compete obligations should only be limited to the protection of confidential information (including trade secrets and other confidential information relating to intellectual property) to which the employee has had actual access. The Compliance Guidelines explicitly require employers to first identify and define the content and scope of their trade secrets before implementing any non-compete.
- Non-compete agreements may only be executed with senior management, senior technical staff, and other personnel with confidentiality obligations. For employees who are not in senior management or senior technical roles, employers should give prior notification to specify the trade secrets involved in their confidentiality obligations before entering into non-compete agreements with them.
- The scope of competing business should be specified clearly, including, where feasible, a list of competing entities.
- Non-compete obligations can only be extended to the geographic scope that corresponds to the company's operational areas and should not generally encompass the 'entire country' or 'globe', unless proper justification is included in the agreements.
- The Employment Contract Law mandates monthly compensation to employees during the non-compete period, without prescribing what that compensation should be. The Supreme Court interpretation in 2021 indicated a minimum of 30 per cent of an employee's average monthly salary during the 12 months prior to termination of employment if not otherwise agreed to by the parties. The new Compliance Guidelines recommend no less than 50 per cent of the employee's monthly salary if the non-compete period exceeds one year.
- While the law allows claims for liquidated damages to be recoverable from the employee in the event of employee breach, it does not specify

a standard regarding the appropriate amount. The Compliance Guidelines suggest that such amounts should be reasonably determined based on potential economic loss and the total compensation to be paid to the employee for non-compete, and generally not exceed five times the total compensation.

- Employers are permitted to require employees to report their employment status during the non-compete period. Although such reporting requirement has long been a common approach in practice, employees have occasionally disputed these requirements given lack of legal grounds. The Compliance Guidelines now confirm the practice, giving employers more confidence in enforcing it.

Given these developments, employers are strongly encouraged to review and update their existing non-compete policies and practices - particularly those regarding the scope of trade secrets and intellectual property, criteria for selecting personnel to implement non-compete, the geographic scope to be restricted, identification of competitive entities, monthly compensation arrangements and liquidated damages. Adhering to the latest guidance will help ensure greater validity and enforceability of non-compete agreements.

04
Hong Kong

Entering 2026, there is a continuing shift towards enhanced employee protections, tighter regulatory oversight, and closer judicial scrutiny of employer decision making in Hong Kong. From the abolition of the MPF offsetting mechanism and reforms to the "continuous contract" threshold, to significant court guidance on summary dismissal and post termination restraints, these changes have practical implications for workforce management and employment risk.

Abolition of the MPF offsetting mechanism

Effective 1 May 2025, employers are no longer permitted to offset employees' statutory severance payments (***SP***) and long service payments (***LSP***) against the accrued benefits derived from employers' MPF *mandatory* contributions. However, the pre-transition portion (ie employees' SP or LSP in respect of the employment period before the 1 May 2025) remains unaffected and can continue to be offset by the accrued benefits derived from employer's MPF *mandatory* contributions.

The accrued benefits derived from employers' MPF *voluntary* contributions and gratuities based on employees' years of service can continue to offset employees' SP or LSP (irrespective of the years of service before or after 1 May 2025).

Employers may apply for subsidies from a 25-year subsidy scheme totalling over HK$33bn, which is launched by the government to share out employers' expenses on the post-transition portion of SP or LSP.

High Court reiterated legal principles for summary dismissal

In a High Court case, the court emphasised that summary dismissal must only be exercised in the most serious and extreme cases of gross misconduct by the employee.

The plaintiff, Mr. Hu (former Chief Operating Officer of the Defendant company), was summarily dismissed by his employer for submitting non-compliant expense claims. The dispute centred on three hotel invoices that Mr. Hu submitted for family expense reimbursement. These invoices were genuinely issued but were for his friend's son's wedding banquet, not for expenses incurred by his family. Mr. Hu argued that he had a conversation with a staff member to submit invoices from 'other sources' because it was difficult to obtain official invoices for his family expenses. The company justified the dismissal under the Employment Ordinance, citing that the submitted invoices were not for expenses covered by his contract and that he failed to provide a sufficient explanation when questioned.

The High Court ruled that the summary dismissal was wrongful and awarded Mr. Hu approximately HK$54m in damages. Although submitting invoices that did not relate to actual expenses incurred could typically justify loss of confidence warranting summary dismissal, the court was not persuaded it was justified in this specific instance, where the facts are 'very unusual'. Key factors in the decision included the fact that Mr. Hu's actual family expenses exceeded the claimable amount (meaning he did not financially gain from the arrangement), his prior conversation with a staff member about the issue, and the company's subsequent approval of the claims.

The judgment reiterated the legal principle that summary dismissal is an extreme measure reserved for only the most serious cases of misconduct that constitute a fundamental breach of the employment contract.

High Court reversed ruling to enforce non-compete against former employee

In April 2025, the High Court issued two conflicting decisions regarding an IT company's attempt to enforce 12-month post-termination restrictions against a former senior employee who had started a rival business.

After the former employee secured work with one of the company's major clients for an upcoming fair, the court initially sided with the former employee and refused to grant an injunction, reasoning that the evidence suggested a pre-existing contract for the event seemed to be in place. The judge concluded that any loss that the former employer may suffer can be compensated by monetary damages, while an injunction would cause irreparable reputational harm to the former employee and the new business, and force it to breach its contract.

However, this decision was overturned at a substantive hearing two weeks later. The reversal

came after the former employee failed to produce any documents proving the contract for the event existed, leading the court to suspect it had been misled. With no binding contract in place, the court found the balance of justice shifted in favour of upholding the restrictive covenants that the former employee had voluntarily signed. The decision was further supported by the fact that the restrictions were nearing their expiry and that the former employer's financial losses would be difficult to quantify.

Notably, the judgment clarified the scope of non-solicitation clauses, holding that it is not necessary for a former employee to initiate contact for a breach to occur. Regardless of who makes the initial approach, it is the former employee's subsequent conduct, such as active engagement, that can constitute a breach. This case demonstrates the court's willingness to enforce post-termination restrictions, especially where there appears to be a coordinated move to divert business.

Reform of the 'continuous contract' requirement

The Legislative Council has passed amendments to the Employment Ordinance that will replace the long-standing '418' rule. Effective 18 January 2026, the threshold for an employee to be considered employed under a 'continuous contract' will be relaxed. Under the new rule, an employee will qualify if they have worked for the same employer:

e. for at least 17 hours per week for four or more consecutive weeks ('417' rule); or

f. for a total of 68 hours over the relevant four consecutive weeks ('468' rule).

This change has significantly broadened the scope of the Employment Ordinance, extending statutory benefits to a larger group of part-time, temporary, and casual employees who previously did not qualify. Newly covered employees will gain access to fundamental statutory rights, including paid annual leave, statutory holiday pay, sickness allowance, and paid maternity or paternity leave.

Trade Unions (Amendment) Ordinance 2025

The Trade Unions (Amendment) Ordinance 2025 came into operation on 5 January 2026, introducing significant changes to the trade union regulatory framework.

The Amendment Ordinance aims to better safeguard national security and improve the trade union regulatory regime, by strengthening the statutory powers of the Registrar of Trade Unions to supervise and regulate unions. Key new powers include the authority to refuse applications for new unions on national security grounds and regulating receipt and use of contributions or donations made by an external force.

Looking ahead

Navigating the status of gig and platform workers

While a comprehensive framework is still developing, the government has signalled its intent to strengthen protections for gig economy and platform workers, with a primary focus on work injury compensation. A dedicated Liaison Group comprising representatives from the government, platform companies, and labour organisations has been formed to explore suitable regulatory proposals.

Until any new legislation is passed, a worker's status as either an employee or an independent contractor is determined on a case-by-case basis. Courts will look beyond the contractual label and apply a multi-factor test to determine the reality of the relationship. Key factors include:

- the degree of control the company or platform exercises over the worker;
- whether the worker can hire helpers to assist with the work;
- whether the worker provides their own equipment or tool; and
- who bears the financial risk and has the chance of profit.

Crucially, if a relationship is found to be one of employment in substance, the employer will be liable for all statutory obligations, regardless of the contract's wording. This includes facing potential criminal liability for any breaches of employment law.

Companies utilising platform workers should monitor legislative developments closely to mitigate misclassification risks.

Expanded Mandatory Reference Checking Scheme

The Mandatory Reference Checking (***MRC***) Scheme is a regulatory framework introduced by the Hong Kong Monetary Authority to prevent 'rolling bad apples' — individuals with past serious misconduct — from quietly moving between financial institutions. Under the scheme, hiring institutions must obtain misconduct-related references from a candidate's previous employers before completing the onboarding process.

Significant changes were introduced with Phase 2 of the MRC Scheme, which came into effect in September 2025. Phase 2 considerably broadened the scope of individuals covered. The scheme now applies to a much wider scope of staff who are licensed or registered to carry on securities, insurance or MPF-regulated activities, meaning far more financial institutions must request and provide

up to seven years of conduct-related history during the hiring process. This expansion standardises hiring controls across the financial services sector and makes it harder for prior misconduct to go undisclosed.

As organisations move through 2026 — the first full year with the expanded scheme in place — they will no doubt experience longer hiring timelines. Greater scrutiny of internal investigations and disciplinary documentation is also expected, given that these records may now need to be shared externally under the MRC framework. Taken together with the growing regulatory focus on non-financial misconduct, the expanded MRC regime signals a clear shift in Hong Kong towards treating integrity, behaviour and culture as core elements of fitness and propriety — making employee conduct scrutiny stricter, more transparent and far more consequential than ever before.

05 India

After more than half a decade of being left in limbo, the much talked about (and much awaited) labour codes were finally implemented with effect from 21 November 2025 (with a few exceptions relating to social security contributions). The Code on Wages, 2019, the Industrial Relations Code, 2020, the Code on Social Security, 2020 and the Occupational Safety, Health and Working Conditions Code, 2020 (***Codes***), marks a watershed moment in India's labour law landscape. The Codes consolidate a vast tapestry of 29 labour laws into four comprehensive legislations and are being touted as the most comprehensive labour law reform in India in a generation.

Key changes that the Codes bring for employers

The law-makers have engaged in a balancing act, juggling the aspirations of industry on one hand with the demands of the burgeoning workforce on the other. For industry, the new regime has brought with it much anticipated and long overdue simplification of compliance procedures with a unified pan-India registration and electronic annual returns system. This will replace the current system of overlapping filings under numerous different labour laws which will cut down the number of returns and forms by around half and ease the compliance burden for employers. Whilst the monetary penalties under the Codes have been increased (perhaps fairly so, given that the majority of these labour laws were quite dated), there has also been a focus on decriminalisation of breaches by employers, with up to 75 per cent of minor and first time offences resulting now in financial penalties rather than imprisonment.

More substantively, certain key terms such as 'industry', 'wages', 'workers' and 'employees' now have a standard definition. This is in contrast to the varying definitions of some of these terms under the previous labour laws that posed various interpretational issues, including a complicated calculation of benefits, leading to inconsistencies and frequent litigation. The Codes now also formally recognise both 'fixed term' employees and 'gig workers', paving the way for the extension of social security benefits to such categories of workers. This is especially relevant given that the number of gig and platform workers in India is expected to rise from 7.7m in 2020-2021 to 23.5m by 2029-2030.

Whilst the response from employers and white-collar employees has remained for the most part neutral, certain provisions under the Codes have triggered apprehension among blue-collar workers. For instance, the decision to raise the threshold for governmental approval in case of retrenchment (from 100 workers under the old regime to 300 under the Codes) shifts the bargaining power more decisively toward employers, which many fear will accelerate the trend toward temporary, outsourced, and fixed-term work, diluting job security.

The road to implementation

With employers scrambling to assess and analyse the effects of the Codes on both their compliance mechanisms as well as their finances, the path to full implementation is a fairly long way away, as central government (***Centre***) and the states will need to work in tandem for the regime to be truly brought to life. Whilst the Centre has blessed and baptised the Codes, they can only function when each of the Indian states notifies their specific set of rules under each of the Codes. As of November 2025, only two states have come out with the final set of rules under each of the Codes, with a majority of the states stuck at the draft stage.

This has created a unique situation where rules and schemes from the previous regime continue to remain in force at the same time as the substantive provisions of the Codes have been enforced. This 'twilight zone' is bound to complicate compliance obligations for employers. This has also impacted deal making with labour cost volatility being increasingly discussed and negotiated especially in sectors which employ a larger blue-collar workforce. Needless to say, state level rules and implementation remain a key missing piece of the puzzle.

It is worth noting that whilst the new regime is transformative, in some cases it seems to still be looking in the rearview mirror. Some of the contemporary issues that the workforce increasingly faces today seem to have not been captured. For instance, despite reports suggesting that a staggering percentage of Indian employees experience symptoms of workplace burnout and/or anxiety, the Codes remain silent on mental health-related issues or regulations. The Codes also do not cover how modern technologies impact workers. Although artificial intelligence (***AI***) is now largely ubiquitous,

there are no provisions that address the refusal of a job application due to automated decision-making or any framework for training the workforce to deploy AI. Similarly, while recognising gig and platform workers, there is no regulation of the technological platforms and the algorithms that are implemented to determine the work allocation and wages for such workers. This issue recently came to the fore when a video of a delivery worker (associated with one of India's most famous quick commerce apps) who completed 28 deliveries in over 15 hours but earned only US$8.50 for it went viral, leading to questions being raised in this regard in the Indian Parliament.

There are gaps in the Codes, which may be addressed further down the road. The first step will be cementing the fundamentals of the Codes and then analysing their implications for employers. This in itself is no mean feat, given the scale of the proposed amendments.


HSBC

06
Indonesia

Last year, Indonesia's employment landscape was shaped by a number of developments that marked the evolving balance between legal certainty, workforce protection, and operational flexibility in Indonesia's dynamic labour market. From a significant Constitutional Court decision redefining termination dispute deadline, to regulatory updates on retirement age and visa classifications, these developments have important implications for global employers operating in Indonesia. Furthermore, new rules addressing employee document retention and recruitment discrimination underscore the Government's continued focus on protecting workers' rights while promoting fair business practices.

New Constitutional Court ruling on time limits for termination disputes

In September 2025, the Constitutional Court issued Decision No. 132/PUU-XXIII/2025 (***CC Decision***), clarifying the start of the time limit for employees to file dispute claims under the industrial relations dispute settlement law (***Law***).

According to the Law, employment termination disputes must all follow the mandatory pre-litigation procedures. Hence, bilateral negotiation, and if the latter fails, mediation or conciliation facilitated by the manpower office. Failure to reach an agreement would then entitle the employee to bring a claim to the Industrial Relations Court (***IRC***), subject to the one-year deadline (***deadline***).

Before the CC Decision, the deadline was generally interpreted to commence on the date the employee received a termination notice from the employer, regardless of the duration of negotiations, mediation or conciliation. In practice, this meant that employees risked losing their right to challenge their termination in front of the IRC if the result of the mandatory pre-litigation procedures exceeded one year.

To ensure that employees are not prejudiced by procedural or administrative delays beyond their control while the mandatory pre-litigation procedures are being played out, the Constitutional Court held that the one-year deadline must be interpreted as commencing on the date of conclusion of mediation or conciliation.

Religious festivities allowance for platform workers

On 15 March 2025, the Ministry of Manpower (***Ministry***) issued Circular Letter No. M/3/HK.04/III/2025 (***Circular Letter***) encouraging, but not obliging, application-based transportation services platforms (***Platforms***) to provide a one-off bonus to eligible driver and courier partners as part of a corporate social responsibility initiative. The bonus was expressly distinguished from the statutory Religious Holiday Allowance entitlement for employees.

The Circular Letter was issued specifically in relation to the 2025 Eid al-Fitr holiday period. There has been no indication from the Ministry of Manpower as to whether a similar policy will be maintained in 2026 however, Platforms are advised to monitor further regulatory developments.

Prohibition against discrimination in the recruitment process

Circular Letter 6/2025 affirms that every citizen, including those with disabilities, has the right to work and prohibits employers from engaging in any form of discrimination during recruitment, such as a discriminatory age requirement (***age requirement***).

The age requirement may only be applied when the nature or characteristics of a job objectively impact a person's ability to perform the work, and must not reduce or eliminate employment opportunities.

Employee retention: Prohibition to retain original employee's documents

Circular Letter 5/2025 prohibits employers from retaining original employee diplomas or personal documents such as competency certificates, passports, birth certificates and marriage licences as a condition for employment, subject to limited exemptions.

To date, employers commonly withhold an employee's original diplomas or certificates when the employee attends management trainee programs in which the employer has incurred substantial costs and expects the employee to assume a managerial role upon completion. Retention of important original documents commonly served as security to

discourage early departure from the training program and/or the employee from seeking alternative employment.

Immigration related developments relevant for global employers

Indonesia has introduced two significant immigration-related updates that global employers should be aware of. First, a new 2025 Ministerial Decree streamlines the visa classification system, reducing categories from 31 to six and consolidating visa indexes from 133 to 110. The revised structure updates activity scopes and introduces new indexes. The six visa classes are: A (visa-exempt entry for eligible nationalities), B (30-day visa on arrival for tourism, business and medical visits), F (7-day, more limited visa on arrival), C (single-entry visit visa covering tourism, volunteering, short training, inspections, internships and now site visits to offices, factories and mines), D (multiple-entry visit visa with the same permitted activities) and E (limited stay visa for work, family reunion, investment, research, education, golden visas, retirees and remote workers).

Second, a new 2025 immigration oversight regulation strengthens monitoring using biometrics, digital systems, and enhanced enforcement powers, requiring employers to ensure strict permit and documentation compliance.

Conclusion

Looking ahead, the changes introduced in 2025 set the stage for ongoing refinement of Indonesia's employment and immigration framework. Employers should seize this opportunity to review their compliance measures and policies to align with the latest regulations and court rulings. As the legal environment continues to evolve, staying informed and adaptable will be essential for managing risks and fostering a stable, fair workplace. Monitoring forthcoming developments will ensure readiness for whatever 2026 may bring in the employment sphere.

07 Japan

A key focus during 2025 in Japan was the proposed strengthening of laws to tackle harassment and strengthen whistleblower protections. Employers will soon be required to address customer harassment and sexual harassment toward job applicants. Whistleblower safeguards will be expanded to include freelancers, prohibit actions that discourage reporting, and provide stronger remedies for those who are treated disadvantageously for making a report.

Expanding the scope of workplace harassment

Customer harassment

In addition to the existing types of harassment, including 'power' harassment (ie workplace bullying or power abuse) and sexual harassment directed at employees, employers will soon be required to take measures against two new types of harassment.

The first new type is called 'customer harassment', which was newly defined in the 'Act on Comprehensively Advancing Labor Measures, and Stabilising the Employment of Workers, and Enriching Workers' Vocational Lives' as:

1. Words and actions at the workplace by customers, business partners, facility users or other stakeholders
2. Which exceed the bounds of what is socially acceptable
3. And harm the employee's working environment.

Examples include verbal or physical abuse by a customer, such as shouting, forcing the employee to kneel in apology, grabbing the employee's clothing, or unreasonable or repeated complaints by a customer, such as visiting the workplace repeatedly to complain about the same issue or refusing to hang up during calls.

Under the amended Act, employers will be required to:

- establish systems necessary to respond appropriately when customer harassment is reported by the employee; and
- implement measures necessary to protect their employees from customer harassment.

Employers will also be prohibited from treating their employees less favourably for reporting customer harassment. Additionally, employers will be required to 'endeavour to' cooperate if they are requested by other business operators for assistance in dealing with customer harassment.

Sexual harassment directed towards job applicants

The second new type of harassment that employers are required to address is sexual harassment directed at job applicants and those in similar positions.

Under the current Equal Employment Opportunity Act, employers are required to take necessary measures to prevent and address sexual harassment directed towards its own employees. However, under the amended Act, this protection will be expanded to include job applicants, interns and those in similar positions as stipulated in the Ordinance of the Ministry of Health, Labour and Welfare.

Employers will be required to respond appropriately when such harassment is reported and will be prohibited from treating the victims less favourably on grounds of having reported such harassment. Employers will also be required to 'endeavour to' implement measures to promote awareness and understanding of sexual harassment towards job applicants, etc. and so that its employees can exercise due care in their behaviour towards them.

Expected timeline and Government guidelines

The changes to the scope of workplace harassment discussed above are expected to take effect in late 2026. The specifics measures that employers will be required to take will be set out in government guidelines which will be published in the following months. Once published, employers will need to update their internal policies and practices to reflect the guidelines.

Changes to the Whistleblower Protection Act

Three major changes will be made during 2026 to the Whistleblower Protection Act. Each of these will need to be reflected by employers in how they operate.

First, the protections of the Whistleblower Protection Act will be expanded to include freelancers (those who work independently and do not employ others) who are providing services to the company or have

been providing services to the company within the past year.

Second, unless there is a valid reason, employers will be prohibited from attempting to identify the whistleblower or discouraging an individual from making a whistleblowing report by using agreements which prohibit reporting or informing the individual that they will be punished for reporting. 'Valid reasons' in which these actions are allowed are to be interpreted narrowly. For example, there may be a 'valid reason' for attempting to identify a whistleblower when there are serious doubts about the credibility of the whistleblower report, where it would be impossible to conduct the investigation without identifying which department the whistleblower is from, or the circumstances in which the employer becomes aware of the compliance issue. There may also be a 'valid reason' to ask an employee to refrain from making a whistleblowing report when the employer is already investigating and actively working to rectify the issue.

Third, there are stronger remedies for whistleblowers who are treated unfavourably for making the whistleblowing report. Under the amended Whistleblower Protection Act, any dismissal or disciplinary action within one year of a whistleblowing report is presumed retaliatory in civil cases — the employer bears the burden of proving the action was unrelated to the report. Additionally, dismissing or taking disciplinary action against an individual for filing the whistleblowing report will now have criminal consequences, including imprisonment of up to six months.

The changes will take effect on 1 December 2026. Given these enhanced protections for whistleblowers, employers are encouraged to treat whistleblowing reports with ever more caution.

08
Malaysia

Malaysia is implementing wide-ranging employment reforms, reshaping compliance obligations for businesses. Key developments include a new statutory framework for gig workers, expanded social security coverage, and greater alignment of Sabah and Sarawak labour standards with national law. Employers also face new duties with mandatory EPF contributions for foreign workers, strict stamping requirements for employment contracts, and strengthened anti-harassment and anti-bullying laws with significant penal consequences.

New statutory regime for platform work

Parliament has passed the Gig Workers Act 2025, creating a stand-alone framework for platform work outside the traditional employment relationship. The Act mandates service agreements, sets statutory rights to earnings and transparency, caps deductions, introduces safeguards against unjustified deactivation, and requires disclosure of automated monitoring or decision-making. It also establishes a dedicated Gig Workers Tribunal with binding awards and appeals to the High Court. Although gazetted in late 2025, commencement will be phased by ministerial appointment, with operational impact expected from 2026 for platforms and businesses engaging gig workers.

Expansion of social security protection

The Employees' Social Security Organisation (SOCSO) has introduced the Non-Employment Accident Injury Scheme (Lindung 24 Jam / Lindung 24/7) to cover non-workplace accidents, reflecting hybrid and flexible working patterns. In parallel, the Employees' Social Security (Amendment) Bill 2025 extends statutory protection to accidents occurring outside working hours by creating a new category of covered contingencies and aligning benefits, contributions and administration accordingly. The Bill is not yet in force; until enacted, the Lindung 24 Jam scheme operates within the existing framework.

Harmonisation in Sabah and Sarawak

From 1 May 2025, amendments to the Sabah and Sarawak Labour Ordinances align East Malaysian standards more closely with the Employment Act 1955 which is applicable in West Malaysia. Key changes include coverage for all employees regardless of wage or role, a 45-hour workweek, 98 days' maternity leave, seven days' paternity leave, codified flexible work arrangements, anti-discrimination and sexual-harassment inquiry duties, forced-labour prohibitions, modernised terminology and higher penalties. These reforms support national consistency and signal increased enforcement focus.

Mandatory EPF (pension) for foreign employees

From October 2025, Employee Provident Fund (EPF) contributions are compulsory for non-Malaysian employees holding valid passports and work passes (excluding domestic workers). The EPF (Amendment) Act 2025 sets contributions at 2 per cent for both employer and employee, narrowing historic gaps in retirement coverage. EPF and the Immigration Department have integrated systems for auto-enrolment and data verification, and enforcement has commenced.

Mandatory stamping of employment contracts

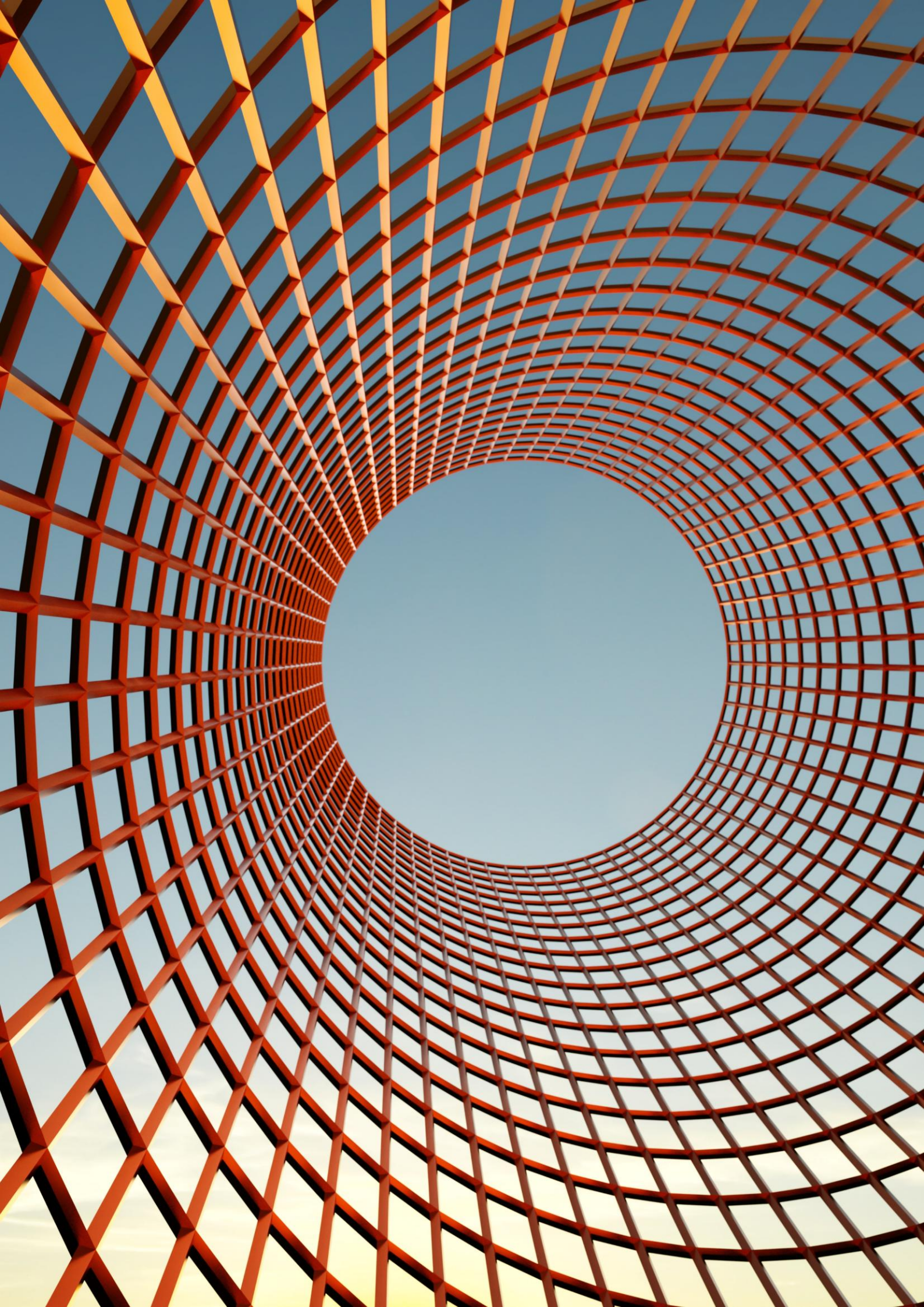
The Inland Revenue Board of Malaysia has reiterated that employment contracts are chargeable instruments and that unstamped contracts are inadmissible in court, heightening litigation risk. Transitional measures remit penalties for contracts finalised between 1 January to 31 December 2025, subject to stamping by year-end. From 1 January 2026, contracts executed in Malaysia must be stamped within 30 days of execution (30 days of receipt if executed abroad). Fixed duty remains RM10 per original; late-stamping penalties apply on a stepped basis. In-scope documents include offer and appointment letters, fixed-term contracts and renewals, secondments, and two-party addenda or policies forming part of the employment agreement. Certified translations may be required where documents are not in Bahasa Malaysia or English. Employers are well advised to create operating procedures to ensure that stamping is carried out as required to avoid penalties for non-compliance.

Harassment and bullying

Following amendments to Malaysia's Penal Code in 2025, bullying and harassment now carry express penal consequences, significantly strengthening

individual protections and reshaping employer risk and response. The newly inserted offences in sections 507A to 507G criminalise stalking, harassment, threatening or insulting communications and acts, as well as the publication of identity information to cause harassment or facilitate harm, with penalties ranging up to three years' imprisonment or a fine, or both, depending on the provision engaged. The criminalisation of bullying and harassment expands employee recourse to include reporting alleged perpetrators to law enforcement, in addition to internal grievance channels, with the realistic prospect of penal investigation and prosecution under the new sections where thresholds are met.

Separately, and beyond the Penal Code amendments, individuals alleging sexual harassment may seek relief through the Anti-Sexual Harassment Tribunal against the alleged perpetrators, and employers remain under statutory obligation to investigate sexual harassment allegations under the Employment Act 1955. This factor will inevitably heighten the urgency and rigour of employer responses to complaints, including the need for prompt, well-scoped and well-documented investigations, given potential parallel criminal exposure and the need to preserve evidence relevant to the statutory elements and definitions now in force.



09
New Zealand

2025 was another significant year for employment law in New Zealand. The centre-right coalition Government continues to actively advance reforms aimed to '*restore business confidence and certainty*'. 2026 will be pivotal as an election year, with the Government looking to implement these reforms before the election (likely in Q4). If a centre-left Government is elected, some of these changes may prove to be short-lived.

Key legal developments

Supreme Court decides that four Uber drivers are employees rather than contractors: Raiser Operations and others v E Tū and another [2025] NZSC 162.

The Supreme Court upheld the Court of Appeals' 2024 ruling that four Uber drivers are employees under the Employment Relations Act 2000. This decision determinatively clarifies how employment status is assessed for ride-share drivers. As employees, the four drivers are now entitled to pursue personal grievances and access other benefits such as annual holiday and sick leave, rest and meal breaks, minimum wage and KiwiSaver.

On appeal, Uber argued that they provide a digital platform for drivers and riders to contract with each other. However, the Court rejected Uber's argument and found that Uber engages drivers to provide transportation services to users. While drivers owned and managed their vehicles, and could choose their work hours, Uber exerted significant control over driving routes, terms of service, pay rates, customer relationships and performance ratings, amongst other factors.

While the judgment constitutes a major win for the four drivers, other ride-share drivers wanting to challenge their employment status will have to lodge their own claims. The window for doing so is small, with the Government planning to introduce legislation in early 2026 that, if certain conditions are met, will classify ride share drivers and other 'gig' workers as contractors.

Material changes on the horizon

The Government has made significant in-roads on its legislative agenda designed to make employment law more employer friendly. These amendments are likely to come into force prior to the election in 2026.

Update on Employment Relations Amendment Bill – income threshold, contractor classification and more

The Employment Relations Amendment Bill will introduce several changes, including an income threshold for unjustified dismissal claims, exempting high earners from raising a personal grievance in respect of dismissal, as well as a contractor 'gateway test'. Recently a Review Committee recommended by majority that the Bill be introduced as law.

- Of note, the Committee recommended that the income threshold increases from the currently proposed NZ$180,000 to NZ$200,000. It also recommended that income is assessed as an employee's total remuneration, including commissions, bonuses and other payments, rather than their base salary as specified in the employment agreement.

  For existing employees, there will be a 12-month timeframe before the income threshold takes effect. Within that transitional period, we recommend that employers assess which of their employees are likely to sit above this threshold and consider their position on whether to allow any employees to 'opt back in' to the unjustified dismissal framework, or to negotiate any customised dismissal procedures.
- The 'gateway test' proposes five criteria to determine whether a working arrangement gives rise to a genuine contracting arrangement. If the criteria are satisfied, an individual will be barred from making a claim that they are an employee.

  This change is particularly timely given the recent decision in the *Uber* case. Once introduced, one can expect that Uber and other 'gig' economy businesses will use the new criteria to ensure individuals are classified as independent contractors. At this stage, it will not have retrospective effect and so will not impact on the four drivers who were classified as employees by the Supreme Court.

Without prejudice conversations clarified: Termination of Employment by Agreement Amendment Bill

This Bill was first introduced in November 2024 and proposed a new concept for New Zealand called 'pre-termination negotiations', allowing employers and

employees to have discussions about ending employment where there is no pre-existing dispute, without this giving rise to a personal grievance.

Currently, an employer and employee can engage in *without prejudice* conversations around the termination of the employment relationship, but only if there is an existing dispute. Ironically, we have observed an increase in disputes relating to whether a conversation between an employer and an employee was genuinely *without prejudice*.

The amendment is likely to be beneficial for employers and employees alike, as it will provide clearer legal parameters and guidelines when it comes to initiating, and having, these conversations. A recent Committee Report recommends introducing additional procedural safeguards which did not originally form part of the Bill. If adopted, these safeguards will mitigate some of the power imbalance issues that were of concern to employees and employee representative groups.

Is change as good as a holiday: the Employment Leave Act

Following last year's announcement that proposed amendments to the Holidays Act were not fit for purpose, the Government has announced a re-worked Employment Leave Bill. The reform aims to simplify leave entitlements and payroll compliance by introducing accrual of leave based on hours worked, rather than days or weeks. It also creates a single calculation for all leave types.

The new legislation will be a welcome change (as the current legislation is universally perceived as complex and difficult to apply) and is expected to be introduced to the House in early 2026. Employers will need to ensure that their payroll systems are correctly configured as inadvertent non-compliance can be very costly with a number of employers needing to undertake seven figure remediation exercises in recent years.

10 Philippines

The 2025 developments reflect a year of consolidation rather than expansion in Philippine labour and employment law. In the absence of new labour statutes, the regulatory landscape was shaped by executive and administrative issuances, as well as jurisprudence that clarified long-standing legal uncertainties. This past year also saw the DOLE laying important groundwork for improving access to labour justice. At the same time, the breadth and volume of pending bills filed in Congress signal a trajectory for future labour reform, particularly the increase of protection to vulnerable sectors. Legislative attention has gravitated towards wage adequacy, work-life balance, and sector-specific protection, with particular emphasis on OFWs and healthcare workers. Whether these proposals will materialise into comprehensive legislation remains uncertain, but the policy signals in 2025 suggest that the foundations for more targeted and responsive labour reforms have already been laid.

New guidelines concerning workers' rights

President Ferdinand R. Marcos Jr. issued Executive Order No. 97, adopting the Omnibus Guidelines on the Exercise of Freedom of Association and Civil Liberties (***Guidelines***). The Guidelines clarify the roles and responsibilities of key stakeholders, such as government agencies, employees, and law enforcement authorities, in promoting, respecting, and safeguarding workers' rights to freedom of association and civil liberties. The issuance also underscores the administration's commitment to upholding and strengthening workers' rights, particularly the constitutional guarantee of freedom of association.

Several new orders from the Department of Labor and Employment

Labour law enforcement and dispute resolution

The Department of Labor and Employment (***DOLE***) released issuances aimed at reinforcing and enhancing existing mechanisms for labour laws enforcement and dispute resolution. For instance, the DOLE issued Department Order No. 249, series of 2025, which updates the implementing rules and regulations of the Single-Entry Approach (SEnA) Program (which is the mechanism institutionalised under Republic Act No. 10396 mandating conciliation-mediation in all labour disputes). The revised rules introduce greater flexibility by incorporating a digital platform that enables workers and employers to file, monitor, and resolve disputes online. This innovation streamlines processes, significantly reducing resolution times and addressing common challenges such as duplicate filings and referral delays.

Occupational safety and health

The DOLE also strengthened occupational safety and health (***OSH***) standards through Department Order No. 252, series of 2025, which provides clearer and more detailed guidance for employers on OSH compliance. The issuance specifies the OSH requirements for each industry type, including establishments that use co-working spaces and residences as workplaces, a significant innovation and timely recognition of evolving work arrangements. Among its other notable provisions is the requirement for temporary accommodation and welfare facilities for construction workers, a sector considered one of the most vulnerable in the country to occupational hazards.

Anti-discrimination and welfare protections

The DOLE also issued targeted rules to strengthen anti-discrimination and welfare protections. Some examples include:

- Department Order No. 251, series of 2025, which clarified the acts constituting sex-based discrimination in employment, the procedure for filing complaints over acts of discrimination, and the penalties for discrimination solely on account of a woman's sex.
- Department Order No. 253, series of 2025, which imposed solidary obligations on employers and contractors to provide standard-compliant temporary accommodations for construction workers under specific conditions.
- Department Order No. 254, series of 2025, or the implementing rules of the Caregivers' Welfare Act, which operationalises statutory guarantees on fair compensation, safe working conditions, and access to social protection for caregivers.

Start of employment relationship

In *Aragones v. Alltech Biotechnology Corporation* (G.R. No. 251736, April 2, 2025), the Supreme Court held that employment relationship is created upon the employee's acceptance and signing of the offer of employment, even if the actual start date is set at a later date. The decision is significant for employers contemplating a restructuring or redundancy program, as it confirms that employment rights and obligations may already attach even prior to the employee's physical assumption of duties.

Institutional support for union protection and good faith collective bargaining

The Supreme Court's ruling in *Guagua National Colleges v. Guagua National Colleges Faculty Labor Union and Guagua National Colleges Non-Teaching and Maintenance Labor Union* (G.R. No. 252101, March 5, 2025) reaffirmed institutional support for union protection and good faith collective bargaining. While the general rule is the power to enforce the terms of a CBA, lies with the voluntary arbitrators, the Supreme Court upheld the jurisdiction of the National Labor Relations Commission (***NLRC***) to execute the provisions of a collective bargaining agreement, especially where there is a finding that the employer was engaged in bad faith bargaining. The Supreme Court ruled that the NLRC would be in the best position to enforce the CBA since the relationship between the parties had already soured from the lengthy legal dispute over the increase in economic benefits and submitting the dispute to voluntary arbitration would only promote multiplicity of suits and further prolong the settlement of rights and obligations between the parties.

Employee preventive suspension

In *Sillano v. JGC Philippines, Inc.* (G.R.No.273562, February 24, 2025), the Supreme Court sustained the validity of the preventive suspension imposed on an employee who refused to turnover to his employer the source codes of a program that he created during his employment, notwithstanding that the ownership of the program had not yet been determined at that time. The Supreme Court reiterated the rule that preventive suspension is not a penalty but a disciplinary measure that may be taken when an employee's continued employment poses a serious and imminent threat to the employer's life or property. Thus, from this ruling, the assessment of the validity of the suspension must be considered based on the facts at the time that the suspension took place, notwithstanding that these facts may change or no longer be true at a different point in time. Based on this, it would appear that 'serious and imminent threat' that would warrant the imposition of preventive suspension may prescind from the employer's good faith belief of ownership of a property notwithstanding a subsequent determination that the said employer did not in fact own the property which was the main reason for the suspension.

11
Singapore

2025 saw material developments to Singapore's employment landscape, including the passing of the Workplace Fairness Act 2025, substantial enhancements to parental leave and indications of substantial amendments to Singapore's Employment Act 1968. Looking ahead to 2026, employers should start preparing for the implementation of the Workplace Fairness Act 2025 in 2027, and updating their policies in light of this.

The Workplace Fairness Act 2025

The first Workplace Fairness Bill was passed in Parliament on 8 January 2025 (***First Bill***), with the second part of the legislation, the Workplace Fairness (Dispute Resolution) Bill (***Second Bill***), being passed on 4 November 2025. The complete Workplace Fairness Act 2025 (encompassing both the First and Second Bills) is expected to come into force in end-2027.

The First Bill contains substantive protections against workplace discrimination while the Second Bill addresses how claims can be brought. It establishes a framework that provides employees who experience workplace discrimination with an avenue to seek redress amicably and expeditiously, with safeguards to deter frivolous and vexatious claims.

- Before bringing an action for discrimination, the employee must first submit a request to mediate.
- The Employment Claims Tribunals (***ECT***) will be able to hear workplace discrimination claims of up to SGD 250,000. If a claim exceeds this amount, it will be heard by the General Division of the Singapore High Court.
- Employers can apply to strike out frivolous and vexatious claims, and judges will also be empowered to strike out such claims of their own motion or make adverse costs orders.

Employers should use the period before the Workplace Fairness Act 2025 takes effect in late 2027 to establish compliant policies and training programs in preparation for the upcoming changes, including implementing grievance handling policies – which will be mandatory.

Parental leave enhancements

Parental leave and related protections were strengthened in 2025. Government Paid Paternity Leave doubled from two to four weeks for eligible fathers of Singaporean children born on or after 1 April 2025. A new shared parental leave scheme will also be available for eligible parents of children born on or after 1 April 2025, allowing them to share an additional six weeks of government paid leave, in addition to their maternity and paternity leave entitlements. The default allocation is for the shared parental leave to be split equally, but this can be re-allocated by agreement. The shared parental leave scheme is scheduled to increase on 1 April 2026 from six to ten weeks.

Where it is presently unlawful for employers to serve a notice of termination on female employees on maternity leave, from 1 April 2025, this employment protection was also extended to include fathers and adoptive parents who are on government paid paternity or adoption leave.

Amendments to Singapore's Employment Act 1968

On 4 August 2025, it was announced that a Tripartite Workgroup (***TWG***), which comprises union, employer federation, and government representatives, was formed to review Singapore's Employment Act 1968 (***EA***).

The TWG will study and develop recommendations to update the EA to account for the changing labour force profile, the evolving forms of work, and the challenging economic landscape. This includes ensuring adequate protections for different groups of workers, and streamlining the EA to reduce regulatory and compliance costs for businesses.

The TWG will consult and engage stakeholders, including employers and employees, and expects to submit its recommendations to the Government by the second half of 2026.

Retrenchment exercises

In late 2025, Agoda made headlines for including in its severance document a clause which expressly stated that employees were not to report their retrenchment to the Ministry of Manpower (***MOM***), other government agencies and tribunals, and trade unions. If they did so, the employees would have their severance benefits revoked.

Under the Employment Claims Act 2016 (***ECA***), any provision in any agreement is void to the extent that it purports to (i) exclude or limit the jurisdiction of a tribunal; or (ii) prevent a person from submitting a

mediation request or making a claim, application or appeal under the ECA.

In light of the recent spotlight on retrenchment exercises in Singapore, employers are reminded to be vigilant in conducting their retrenchment exercises, and ensure that their current practices are compliant with the relevant legislation, guidelines and advisories, especially if trade unions are involved.

Claims against employees' competing activities

In 2025, a High Court case showed that it is still possible for employers to succeed in claims against employees who engage in competing activities.

In *Guy Carpenter & Co Pte Ltd v Choi Okmi and others* [2025] SGHC 241, the dispute centred on whether two employees (the first and second defendants), while still in the service of their original employer (the claimant) and before their official dates of departure, had conspired and acted in concert with two other entities (the third defendant, and its wholly-owned Singapore subsidiary, the fourth defendant). The said conspiracy allegedly involved the two employees diverting business away from their original employer towards one of the entities (the fourth defendant) after its incorporation. Subsequently, the two employees then moved to the entity in question.

The Singapore High Court found, *inter alia*, that:

a. the first and second defendants breached contractual terms prohibiting secondary business or employment;

b. the first and second defendants had breached restrictive covenants protecting the claimant's trade connections with its clients. In this respect, it is interesting to note that despite the lack of a geographical restraint in the restrictive covenants protecting the claimant's trade connections with its clients, the Court held that this was not unreasonable since the fact that the first and second defendants were employed under the Korean desk itself would serve as a practical limitation to the reach of the clause. The Court also found that the lack of an activity restraint is not unreasonable since the covenant is still limited to clients or prospective clients whom the first and/or second defendants had dealings with in the 18 months prior to the termination of their employment. However, the Court found that the second defendant did not breach restrictive covenants protecting the claimant's trade connections with its suppliers, as the suppliers appeared to have decided on their move independent of any interference by the defendants;

c. the first defendant induced the second defendant to breach his contractual obligation not to engage in secondary business or employment and his non-solicitation and non-dealing covenants; and

d. the defendants joined in a conspiracy to injure the claimant by setting up a competing reinsurance broker.

This case offers useful guidance to employers on establishing sufficient protection (for instance, through the effective drafting of relevant covenants and policies) for the company's interests against employees engaging in competitive activities, and outlines potential claims it may pursue should this occur.

Bifurcation of employment claims

At the ECT, wrongful dismissal and salary-related claims are capped at SGD 20,000 per claim (or SGD 30,000 with union assistance). A recent first instance decision, however, suggests that even after a completed ECT claim, employees may still have scope to pursue additional claims in the Singapore courts.

In *Goh Hui En Rebecca v IG Asia Pte Ltd* [2025] 4 SLR 1477, a former employee was terminated for alleged *'serious misconduct'*, prompting the employer to file a misconduct report with the Monetary Authority of Singapore (MAS).

The former employee commenced ECT proceedings seeking salary in lieu of notice and largely succeeded. The ECT also determined that the employer had failed to substantiate the misconduct allegations.

Armed with the ECT decision, the employee proceeded to initiate Singapore High Court proceedings, claiming unpaid sales commissions, damages for defamation in relation to the misconduct report, and negligence regarding the filing of that report.

The former employer sought to strike out her claims, contending that she had improperly bifurcated her claims between the ECT and Court. However, the High Court Assistant Registrar disagreed, thereby validating the former employee's two-stage strategy, for now.

Absent a contrary decision from a higher court or judge, this case may serve as a template for employees seeking to pursue claims beyond the ECT's jurisdictional limits. Businesses should therefore recognise that ECT proceedings – despite their lower monetary limits –must be properly addressed and defended.

12
South Korea

Korea saw a major swing in employment law policy in 2025. This swing stems from the impeachment and dismissal of President Yoon Suk Yeol on April 4, 2025, arising from him declaring martial law on December 4, 2024.

While President Yoon was known for his business-friendly policies, his successor, President Lee Jae-Myung, who was inaugurated on June 4, 2025, is known for his employee and labour union-friendly policies. Under President Lee's leadership, the Korean Assembly quickly passed new union-friendly legislation called the Yellow Envelope Act (the ***Act***). The key facets of the Act, which will take effect on March 10, 2026, are:

- **Expansion of the definition of 'employer':** Even without an employment relationship, if *substantial control* is recognised, a party is considered to be an employer from a labour union law perspective. This is most relevant to companies that use subcontracted workers. Under this new Act, subcontracted workers will be able to unionise and request bargaining with the principal company they are working for if they can prove that the principal company has 'substantial control' over their working terms and conditions.
- **Expansion of Union Membership:** While in the past only 'employees' could form a labour union, under the new Act, 'non-workers' (such as gig workers, freelancers, retirees, etc.) can join a labour union.
- **Restriction on Claim for Damages:** The Act provides for various ways to limit the damages that union members must pay if they were involved in tortious behaviour. For example, while in the past labour union members could be held jointly and severally liable for damages they caused, under this new law, the company must prove the amount of damage for which each individual employee is severally liable.
- **Expansion of Grounds for Taking Collective Action (Strikes):** The Act expands the grounds on which labour unions may go on strike. In the past, a labour union could only go on strike if there was an impasse in the negotiations over working terms and conditions. However, under this new law, a labour union may go on strike over business management decisions that affect workers' status and working conditions as well as an employer's clear violation of collective agreements.

To prepare for these changes, many companies are reviewing their relationship with sub-contracted workers to try identifying ways to reduce or eliminate elements that suggest 'substantial control'.

Aside from the Act, President Lee has called for various other employee-friendly changes, including implementing an obligation for employers to measure and record actual working hours as well as gradually lifting the minimum retirement age from its current 60 to 65 years. Time will tell if these ideas materialise into law.

13 Taiwan

Taiwan has introduced key labour reforms enhancing worker protections and compliance obligations. Amendments to worker leave rules prohibit adverse treatment for up to 10 days of sick leave and require holistic evaluations beyond leave counts, while allowing more flexible family and parental leave arrangements. Major revisions to the Occupational Safety and Health Act strengthen construction safety, mandate clearer workplace bullying prevention measures, and increase penalties and disclosure for violations. A draft amendment to gender equality rules also broadens the definition of 'highest responsible person,' enabling employees to report sexual harassment by de facto leaders directly to authorities.

Amendments to worker leave rules add safeguards for sick leave and increase flexibility for family care

On December 9, 2025, the Ministry of Labor amended and promulgated the Regulations of Leaves for Workers, which officially took effect on January 1, 2026.

A major goal of this amendment is to protect workers' right to health and to prevent workers from choosing to work while ill due to concerns about unfavourable treatment for taking sick leave. Under the amended regulations:

1. If a worker takes no more than 10 days of ordinary sick leave within one year, the employer may not impose any unfavourable treatment on the worker as a result of such leave, such as adversely affecting performance evaluations, performance bonuses, or similar matters.
2. Even if a worker takes more than 10 days of ordinary sick leave, the employer, when conducting personnel evaluations, must still make a comprehensive assessment based on the worker's job competence, work attitude, and actual performance, and may not base the evaluation solely on the number of ordinary sick leave days taken.

Furthermore, the amended regulations allow employees to take family care leave on an hourly rather than a daily basis. In parallel, the Regulations for Implementing Unpaid Parental Leave for Raising Children were also amended to allow parents to take parental leave on a daily basis (rather than in a single block of time). Although the total amount of leave in these cases remains unchanged, these regulations are expected to give employees more options to take parental and family leave on an ad hoc basis.

Legislature approves amendments to strengthen industrial accident prevention and workplace bullying prevention

On December 19, 2025, amendments to certain provisions of the Occupational Safety and Health Act were promulgated by the President, with the effective date being yet to be determined. These amendments represent the most extensive revision of the Act in recent years and aim to achieve comprehensive prevention of industrial accidents and workplace bullying. Key points of the amendments are:

1. **Strengthening construction safety and contractor responsibility:** When planning, designing, and carrying out construction projects of a certain scale, business entities (project owners) shall, based on the characteristics of the projects, analyse potential hazards, prepare occupational safety and health drawings, specifications, and budgets, and require contractors to implement preventive measures.
2. **Improving workplace bullying prevention:** The amendments aim to clearly define workplace bullying and require employers to establish complaint channels and procedures based on the size of the business entity, as well as to publicly disclose preventive measures. Employers must implement investigation and handling mechanisms for internal workplace bullying complaints, including conflict-of-interest avoidance requirements, providing assistance and protective measures for complainants, and register complaint cases and their handling results on a website designated by the competent authority.
3. **Increasing penalties and expanding public disclosure of violations by employers:** To urge employers to actively prevent occupational accidents, the amended Act increases criminal penalties, fines, and administrative penalty amounts, and expands the scope of public disclosures when violations or accidents occur.

Draft amendments to sexual harassment rules expands protections against abuses of power by responsible persons

On December 2, 2025, the Ministry of Labor announced a draft amendment to Article 4-2 of the Enforcement Rules for Act of Gender Equality in Employment. The purpose of this amendment is to clarify that the 'highest responsible person' as regulated under the Gender Equality in Employment Act includes the '*de facto* responsible person' who directly or indirectly controls the personnel, financial, or operational management of a business entity. This change to the definition of 'highest responsible person' would, in turn, ensure that employees and job applicants who are subjected to sexual harassment by a *de facto* responsible person of the company may file a complaint directly with the local competent authority (and not only to the company) to allow for impartial investigation.

The draft amendment is likely to be promulgated and implemented in 2026.

14
Thailand

2025 was another significant year for employment law in Thailand, with recent amendments to Thailand's Labour Protection Act B.E. 2541 (1998) as amended (the '**LPA**') having become effective from 7 December 2025 and a number of further reforms to the LPA being currently discussed.

LPA amendments in force since 7 december 2025

Key LPA amendments include:

- **Maternity leave enhancements**: Maternity leave has been extended from 98 days to 120 days, with employers liable to pay full wages increased from the first 45 days to 60 days.
- **New infant-care leave entitlement**: A new and separate paid leave category was created for female employees whose newborn child has a medically certified serious illness, abnormality, or disability that requires continuous care of 15 days, with employers liable to pay 50 per cent of an affected employee's regular wage for such period.
- **New paternity leave entitlement**: New fathers are now entitled to 15 days full paid leave so that they can attend and assist with childbirth and childcare, provided that such right must be exercised within 90 days of such child being born.
- **New report obligation**: A new legal requirement is imposed on those employers with 10 or more employees to submit an annual report on employment and working conditions to the Department of Labour Protection and Welfare by the end of January of each year.

To reflect the aforementioned amendments, and to prevent an employer's existing Work Rules being in violation of the LPA, employers will need to (i) review and update their internal work rules, employee handbooks/ policies, and employment agreement templates (if applicable), (ii) revise payroll and human-resources systems to account for the new leave categories and payment rules, and (iii) adapt their workforce planning moving forward.

Additional proposed amendments to the LPA

Additional amendments to the LPA are currently being considered by the House of Representatives, with the first review completed in October 2025. These include:

- **Reducing the weekly maximum number of working hours** from 48 to 40 hours.
- **Increasing the minimum annual leave entitlements of employees** from six days after one full year of service to 10 days after completing 120 days of service.
- **Introducing a new category of leave** of up to 15 days per year for an employee to care for a close family member who is either admitted in a hospital or is required to be taken care of.

These proposed amendments would affect staffing, shift schedules and overtime budgets of employers. One can expect continued debate as such bills move to the Senate.

Termination for economic reasons and 2025 Supreme Court precedents

The rules on termination for economic reasons have been alleviated for employers by the Thai Supreme Court. So far, fair grounds to terminate employment for economic (non-employee performance related) reasons included:

- the employer experiencing real economic hardship (typically evidenced by accumulated losses from business operations over consecutive fiscal years); or
- redundancies required for the survival of the business (without discrimination among employees); or
- the employer being able to demonstrate inefficiencies or overlap in roles and responsibilities.

The Thai Supreme Court published a number of decisions in 2025 which established that an employer can terminate its employees even if it still derives profits from its business operations (ie, it is no longer required to demonstrate accumulated losses from business operations over consecutive fiscal years), provided that:

- such termination is necessary to ensure that the employer can remain competitive, ie, implementing changes to its business model or plan to increase the employer's efficiency to

better compete with the other business operators in the long-term, and

- it first holds discussions with the affected employees on the reasons and necessity for termination and such discussion were held over a reasonable period of time before the actual termination (ie, approximately two months before the actual termination).

A termination that does not meet the aforementioned criteria is considered unfair, allowing the employee to obtain damages for unfair termination (noting that these damages come on top of the employee's entitlement to statutory severance pay). The general 'rule of thumb' for damages awards for unfair termination is one month's salary per year of service, although a Labor Court could award less or more depending on the specific facts.

15 Vietnam

2025 saw significant activity in Vietnam's legal landscape, with over 80 laws and 300 decrees issued. Although not a top focus like tech, the employment sector also experienced notable updates.

Application of E-Labour Contract

On 24 December 2025, the Government issued Decree No. 337/2025/ND-CP regulating E-Labour Contract (***Decree 337***). Although E-Labour Contract (***ELCs***) has been recognised in the Labour Code for quite some time, the guidance for implementation of E-Labour Contract is only established under Decree 337.

Under Decree 337, ELCs are generally defined as employment contracts concluded by electronic means in accordance with Vietnamese regulations on employment and on electronic transactions. ELCs shall have the same legal validity as written employment contracts.

An ELC must be concluded via one of the valid information systems for electronic transactions provided by a registered service provider (referred to as *eContract*). Notably, these eContract systems shall be linked to a centralised ELC platform to be built and operated by the Ministry of Home Affairs.

To enter into ELCs via the eContract system, employers and employees must provide valid identification documents (such as passport for individual and establishment certificate for institutions). Both employers and employees must also have a valid digital signature and use a timestamp service. The ELCs shall take effect at the time of the last signature and the signatures are timestamped and authenticated by the eContract system service providers, unless agreed otherwise. Employers have the right to use eContract and its data on this system for periodic reporting obligations to the competent authorities as well as to for conducting administrative procedures and transactions in accordance with Vietnamese electronic transaction regulations.

While Decree 337 clearly states that the Government encourages the use of ELCs in place of traditional written employment contracts, this should remain to be an option rather than a mandatory requirement.

The usefulness of ELCs in Vietnam is subject to various factors, including how the eContract systems and the centralised ELC platform will be built and operated and whether they are compatible with other online administrative procedure platforms. That being said, it may be advisable for companies in Vietnam to monitor the implementation of this Decree and, when appropriate, consider adopting ELCs for employment management activities.

Decree 337 took effect from 1 January 2026. The centralised ELC platform shall officially commence its operation no later than 1 July 2026.

Personal data protection in the recruitment process and the employment relationship

From 1 January 2026, the Personal Data Protection Law (***LPDP***) and its guiding document, Decree 356/2025 take effect, replacing Decree 13/2023 on Personal Data Protection. Many provisions under the LPDP are generally consistent with those under Decree 13/2023. That being said, there are new provisions specifically dealing with processing of personal data of candidates and employees.

Among other obligations, an employer is required to delete the personal data of a candidate who is not recruited, or an employee who no longer works for the employer, unless otherwise agreed or provided by law. Consequently, if an employer wishes to retain the personal data of candidates or former employees, the former may need to ensure that necessary consents for such retention have been obtained from those individuals.

Increase of minimum wages

Following the increase of minimum wages in 2024, the National Assembly continues to further increase the Regional Minimum Wage, with effect from 1 January 2026. Regional Minimum Wage is applicable to all non-State enterprises and includes four different levels applicable to four groups of administrative zones. From 1 January 2026, the Regional Minimum Wage levels have been increased from VND3,450,000 – VND4,960,000 (approx. US$131 – US$189) to VND3,700,000 – VND5,310,000 (approx. US$179 – US$202).