

**Navigating new challenges in employment and labour law.
Are small medium enterprises (SME) ready for it?**

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DISCLAIMER

- The slides and notes in this talk is not exhaustive nor complete. At best, the notes represents the decisions made and opinions expressed based on the circumstances and facts existing at the time they were made.
- Employment and Labour Law is always evolving and changing and what may be the previously accepted law may changed.
- It is advised that opinions be sought from competent legal or human resource practitioners before embarking on taking any disciplinary and dismissal of workmen or advice on employment and labour law.

Common Misconceptions Among Some Employers

- ▶ We can terminate an employee by giving notice in accordance to Letter of Offer of Employment.
- ▶ Probationers can be dismissed by giving one week notice as per Letter of Offer of employment.
- ▶ If an employee is absent for 2 days, you can terminate his services under Section 15 (2) of the Employment Act 1955.
- ▶ It is ok not to deduct employees contribution to EPF if the employees are agreeable.
- ▶ I have given some money to settle with the employees who were terminated. It is in writing so it should be ok.
- ▶ An employee cannot join a competitor as the letter of employment does not allow it.
- ▶ If a female employee leave before her confinement, then the employer need not pay maternity leave/benefits.
- ▶ After giving three warning letters, I can terminate the services of an employee.
- ▶ The Employment Act 1955 only protect Malaysian workers.
- ▶ Malaysian Employment Laws are more favourable to workers?

Some steps Business Owners should take to protect their businesses

- ▶ Have a well drafted Letter of offer or Employment Contract incorporating important clauses.
- ▶ Hire right - have a well drafted application form, do reference check, look out for details in resume - some tell tale sign like potential candidates leave after 6 months of employment - ask why, ask relevant questions, check history of employment (any period of absence)
- ▶ Use Head Hunters or Recruitment Agencies?
- ▶ Have clear written policies eg. On Sexual Harassment, Disciplinary Procedures, Drugs related Policy, Grievance Procedures and Use of Social Media like Facebook or Employee having another part time employment or business.
- ▶ Do not simply terminate staff - Get advice
- ▶ Domestic Inquiry Mandatory - Show Cause Letter/Investigation
- ▶ Safeguarding of confidential information and restriction of access to confidential Information
- ▶ Staff Training and Talent Retention

New Legislations on Employment and Labour Law

1. Minimum Wages - RM1,500.00 Per month
2. Amendment to Industrial Relations Act 1967 - some changes
 - Direct reference to Industrial Court if Conciliation Failed
 - Legal Cost for employing a lawyer to fight your case
 - Section 30 (1A) - An award from the Industrial Court shall carry interest rate of 8% p.a. interest to be calculated commencing 31st date of the making of the award until award is satisfied.
 - Back wages - up to 24 months for confirmed staff and 12 months for probationers. Reinstatement or compensation in lieu of reinstatement
3. Amendments to Employment Act 1955 - Date of operations to be announced by Minister - some changes
 - Not restricted to any salary cap
 - Paternity leave - 7 days
 - Maternity leave - 98 days
 - Flexibility Working Arrangement
 - Increase in penalty
4. Amendments to Occupational Safety and Health

THANK YOU