What Employers Need to Know About Hiring in Malaysia

Hiring employees in Malaysia comes with a distinct set of legal requirements. For companies expanding into the country, understanding the local framework is crucial to avoid costly missteps. Whether you are setting up a subsidiary or working through an employer of record, the rules around contracts, working hours, leave, and termination are not optional guidelines. They are codified in law and enforced by the labour department.

This article walks through the key areas that every employer should grasp before bringing on staff in Malaysia. The focus is on practical compliance - what the rules say, how they work day to day, and where employers often get tripped up.

The Main Law: Employment Act 1955

The backbone of private sector employment in Malaysia is the Employment Act 1955. It applies to all employees who earn up to a certain monthly wage threshold set by the government, though some provisions extend to all workers regardless of salary. The Act covers minimum conditions of service such as hours of work, overtime pay, annual leave, sick leave, and termination notice.

One common misunderstanding is that the Act only protects low-wage workers. In reality, parts of it apply universally. For example, the rules on termination notice periods and public holidays apply to all employees unless a more favourable contract provision exists. Employers should treat the Employment Act as the floor, not the ceiling. Any employment contract can offer better terms, but never worse.

Employment Contracts: What Must Be Included

While a verbal agreement can be legally binding, a written contract is standard practice and strongly recommended. The Employment Act requires that certain key terms be provided in writing within a reasonable time. At a minimum, the contract should specify the employee's name, job description, start date, salary, working hours, leave entitlements, and notice period for termination.

Probation periods are common and typically last between three and six months. During this period, either party can terminate with shorter notice, usually two to four weeks. After confirmation, the notice period lengthens based on length of service. The Act sets a minimum scale: four weeks for less than two years of service, six weeks for two to five years, and eight

weeks for more than five years. Many employers choose to offer longer notice periods in the contract, and that is perfectly legal as long as it does not undercut the statutory minimum.



Working Hours and Overtime

The standard work week in Malaysia is 48 hours, with a maximum of eight hours per day or nine hours per day if the work is compressed into a five-day week. Any work beyond these limits is considered overtime and must be paid at 1.5 times the hourly base rate. Work done on a rest day is paid at double the hourly rate, and work on a public holiday is paid at triple the rate.

There is no blanket exemption for managerial or executive staff. Even if an employee earns above the statutory threshold, the overtime provisions may still apply depending on the nature of their role. The safest approach is to track hours for all non-shift employees and pay overtime where required.

Leave Entitlements

Employees are entitled to paid annual leave after completing 12 months of continuous service. The number of days depends on length of service: eight days for less than two years, 12 days for two to five years, and 16 days for more than five years. Unused annual leave must be carried forward or paid out at termination.

Sick leave is also statutory. Employees who have been in service for less than two years get 14 days of paid sick leave per year. For two to five years, it rises to 18 days, and for more than five years, 22 days. If the employee is hospitalised, these limits increase. Medical certificates are required for any absence beyond a single day.

Public holidays are another area where Malaysia employment law provides clear entitlements. There are 13 gazetted public holidays in Peninsular Malaysia, though the exact dates vary by state. Employees are entitled to paid leave on 11 of these holidays. If they work on a public holiday, they must be paid at triple the ordinary rate or given a day in lieu.

Statutory Contributions and Deductions

Employers must register every employee with two statutory bodies: the Employees Provident Fund (EPF) for retirement savings and the Social Security Organisation (SOCSO) for employment injury and invalidity coverage. Both require monthly contributions from the employer and the employee. The rates are set by law and change periodically. Failure to register or remit contributions on time can result in penalties and interest.

In addition, employers must withhold monthly income tax from employee salaries under the Pay-As-You-Earn system and remit it to the Inland Revenue Board. Non-compliance with statutory deductions is treated seriously, and back payments can be substantial.

Termination and Dismissal

Terminating an employee in Malaysia is not straightforward. The Employment Act sets out strict procedures for dismissal. An employer must have just cause or excuse for termination, which could include misconduct, poor performance, or redundancy. For misconduct, a proper domestic inquiry must be conducted before dismissal. For poor performance, documented warnings and a chance to improve are expected.

Constructive dismissal claims are on the rise. If an employee resigns because the employer's conduct makes continued employment untenable, the labour court may treat it as a dismissal without just cause. The employer could be ordered to reinstate the employee or pay compensation. This makes it essential to follow proper process, keep records, and consult legal advice before taking any termination action.

Minimum Wage and Salary Deductions

Malaysia has a national minimum wage that applies to all employees regardless of location. The rate is reviewed periodically by the government. Employers must pay at least the minimum wage, and any deductions for housing, utilities, or amenities must stay within limits set by the

Employment Act. Deductions cannot reduce an employee's pay below the minimum wage unless specifically allowed by law, such as for EPF and SOCSO contributions.



Common Pitfalls for Foreign Employers

Companies new to Malaysia often make a few predictable errors. One is assuming that the Employment Act does not apply to foreign employees. It does, with few exceptions. Another is failing to issue a proper written contract, which can lead to disputes over terms. A third is miscalculating overtime or leave entitlements, especially for employees who work irregular hours or shift patterns.

Understanding Malaysia employment law is not just about avoiding fines. It directly affects staff morale, retention, and the company's reputation. A compliant workplace is a stable one, and stability matters when you are building a team in a new market.

For companies without a legal entity in Malaysia, using an employer of record can simplify compliance significantly. The EOR handles registration with EPF and SOCSO, payroll processing, statutory contributions, and termination procedures. This allows the business to focus on operations while staying on the right side of the law.

Whether you handle it in-house or outsource it, the key is to stay informed. The regulations evolve, and what was acceptable last year may not be this year. Regular reviews of your employment practices and contracts will help keep your business compliant and your employees protected.