理慈 Lee, Tsai & Partners

A GREATER CHINA LOCAL FIRM

Asia Employment Law: Quarterly Review

2016-2017

ISSUE 15: FIRST QUARTER 2017

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INTRODUCTION

Asia's legal and human resources advisors are often required to function across multiple jurisdictions. Staying on top of employment-related legal developments is important but can be challenging.

To help keep you up to date, our firm produces the **Asia Employment Law: Quarterly Review**, an e-publication covering 15 jurisdictions in Asia.

In this fifteenth edition, we flag and provide comment on anticipated employment law developments during the first quarter of 2017 and highlight some of the major legislative, consultative, policy and case law changes to look out for in 2017.

This publication is a result of ongoing cross-border collaboration between 15 law firms across Asia with whose lawyers our firm has had the pleasure of working with closely for many years. For a list of contributing lawyers and law firms, please see the *contacts page*.

We hope you find this edition useful.

理慈 Lee, Tsai & Partners

AUSTRALIA

17 & 20 FEB 2017

Building Code Changes Affecting Tenderers for Commonwealth-funded Building Work Take Effect

Changes to the federal legislation establishing the *Code for the Tendering and Performance of Building Work 2016* (the "**Code**") were rushed through Parliament early in the new year (*Building and Construction Industry (Improving Productivity) Amendment Act 2017* (Cth)), followed by amendments to the Code itself.

The changes implement new transitional rules for the requirements applicable to companies seeking to obtain work on federally-funded construction projects – in particular, the Code's imposition of limits on the content of enterprise agreements made between those companies and building industry unions. These limits are essentially aimed at removing union-friendly agreement clauses, or provisions which impede efficiency or productivity.

The effect of the transitional rules is to require tenderers for Commonwealth-funded work to have in place enterprise agreements compliant with the Code by 1 September 2017; and to require a Code-compliant agreement in order for a company to be awarded a tender before that date (subject to a number of exemptions which vary depending on when the relevant enterprise agreement was made and when the company submitted its tender).

More...

AUSTRALIA

23 FEB 2017

Fair Work Commission Reduces Penalty Rates in Retail and Hospitality Awards

In a highly controversial decision (*4-Yearly Review of Modern Awards – Penalty Rates* [2017] FWCFB 1001), a Full Bench of the Fair Work Commission (**FWC**) determined that Sunday and public holiday penalty rates for employees covered by six modern awards should be reduced.

The relevant awards apply to industries including fast food, retail, hospitality and pharmacies. Employers in these industries will be able to apply the lower penalty rates once the applicable transitional and phase-in arrangements have been decided on by the FWC – unless an employer has entered into an enterprise agreement (in which case the relevant modern award does not apply).

Penalty rates for work on weekends and public holidays, and for working other anti-social hours, have long been a subject of contest and debate in the Australian workplace relations system. While they are an established feature of employment in certain industries, penalty rates have come under challenge in recent years with the shift to 24-7 operations in businesses and the service economy.

The FWC Full Bench's decision has triggered significant political debate with the Government essentially supporting the outcome as a positive one for business, and a decision of an independent arbiter that should be respected. Opposition parties and the union movement have strongly condemned the decision and are seeking to override it through legislation which is unlikely to be passed by Parliament.

More...

AUSTRALIA

28 FEB 2017

Federal Court Clarifies Interaction of Leave Entitlements and Public Holidays

In *Construction, Forestry, Mining and Energy Union v Glendell Mining Pty Limited* [2017] FCAFC 35, the Federal Court of Australia confirmed that certain provisions contained in the National Employment Standards (**NES**) regarding the taking of annual and personal/carer's leave on public holidays are concerned only with employees' entitlements to such leave arising under the NES.

Specifically, the Court had to consider whether an employer has the right to make a deduction from an employee's annual or personal/carer's leave entitlement when the relevant leave occurs on a public holiday. An employer does not have such a right when the leave entitlement derives from the NES, which provides employees with a minimum of four weeks' paid annual leave and 10 days' personal/carer's leave per year.

Con't

Click here to view **2016 edition**

Important: action likely required

Good to know: follow developments

Note changes: no action required

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AUSTRALIA 28 FEB 2017

However, according to the majority judgment in *Glendell*, that restriction does not apply in respect of any additional leave the employer may provide (for example, under an applicable award or enterprise agreement). In this case, where the employer provided up to six weeks' annual leave and 15 days' personal carer's leave, it was entitled to make deductions from the additional period of leave where it coincided with a public holiday.

AUSTRALIA 1 MAR 2017

Legislation to Protect Vulnerable Workers Introduced into Federal Parliament

Revelations of systemic breaches of workplace laws in a number of major franchise businesses, including the widely reported investigation by the Fair Work Ombudsman (**FWO**) into the 7-Eleven franchise in 2016, generated significant public concern. They also prompted calls for Australia's workplace laws to be amended to increase the responsibility of franchisors to monitor and take action in relation to activities occurring within their business networks.

In response, the Coalition Government introduced into Parliament the *Fair Work Amendment* (*Protecting Vulnerable Workers*) *Bill 2017*. The Bill proposes to introduce a number of amendments to the *Fair Work Act 2009* (Cth) (**FW Act**), implementing the Coalition's 2016 election policy to address underpayments and other forms of exploitation identified in various inquiries by the FWO and federal and state parliamentary committees. The most significant changes proposed by the Bill include:

- The introduction of higher civil penalties for 'serious contraventions' of prescribed workplace laws (e.g. underpayment of award wages), to address concerns that civil penalties under the FW Act are currently too low to effectively deter employers who exploit vulnerable workers. The maximum penalties for serious contraventions will be A$540,000 for a corporation.
- Clarifying and increasing the applicable penalties for provisions relating to the failure by employers to maintain accurate employee records and payslips.
- Expressly prohibiting 'cash-back' arrangements through which employers unreasonably require their employees to make certain payments.
- Strengthening the evidence-gathering powers of the FWO and introducing new offences for hindering or obstructing investigations, or providing false or misleading information to the regulator.
- Making franchisors and holding companies responsible for contraventions of certain workplace laws by their franchisees or subsidiaries, where they knew or ought reasonably to have known of the contraventions and failed to take reasonable steps to prevent them.

AUSTRALIA 1 MAR 2017

Bill Introduced to Clarify Rules on Bargaining Notices and End 4-Yearly Reviews of Modern Awards

The Government has introduced into Parliament the *Fair Work Amendment* (*Repeal of 4 Yearly Reviews and Other Measures*) *Bill 2017*, which addresses two recommendations of the Productivity Commission's 2015 Workplace Relations Review. The Bill proposes to:

- Repeal, from 1 January 2018, the FW Act requirement that the FWC carry out reviews of all modern awards every four years. This is because the 4-yearly review process has placed substantial demands on all industrial relations parties, and has proven to be very resource-intensive for the FWC as well. Instead, new provisions would apply to enable changes to a modern award to be sought by parties and made by the FWC, based on social and economic necessity.
- Allowing the FWC to overlook minor procedural or technical errors when approving an enterprise agreement, where those errors are not likely to have resulted in any disadvantage to employees. For example, where technical errors have been made in the content of the Notice of Representational Rights which must be issued to employees at the commencement of bargaining, this should not prevent the ultimate approval of an agreement by the FWC (if the defect in the Notice had no relevant effect on the information being communicated to employees). This is intended to overcome the effect of numerous FWC and court decisions in which defective Notices, or other technical problems in the agreement-making process, have led to non-approval of agreements and the parties having to re-commence the bargaining process.

LOOKING BACK

AUSTRALIA

1 MAR 2017

New Queensland Industrial Relations Legislation Commences Operation

Extensive reforms to the state industrial laws in Queensland have taken effect. The *Industrial Relations Act 2016* (Qld) repeals and replaces previous legislation, introducing new rules relating to collective bargaining, minimum employment conditions and protections for employees against adverse treatment and workplace bullying.

Most provisions of the new legislation apply only to state government departments/agencies and local government authorities within Queensland. The new employment conditions include 10 days' paid domestic and family violence leave, a claim being sought by many unions in public sector bargaining and some parts of the private sector across Australia.

More...

AUSTRALIA

22 MAR 2017

Government Responds to Trade Unions Royal Commission with Legislation Banning Corrupt Payments

The *Fair Work Amendment (Corrupting Benefits) Bill 2017* seeks to implement a number of key recommendations of the 2015 Royal Commission into Trade Union Governance and Corruption. The Bill will create the following new criminal offences under the FW Act:

- Giving a registered organisation (i.e. trade union or employer association registered under federal law) or a person associated with a registered organisation a 'corrupting benefit' (e.g. a benefit intended to influence an individual improperly);
- Receiving or soliciting a corrupting benefit;
- An employer providing, offering or promising to provide any cash or in kind payment to a union or certain defined beneficiaries (other than legitimate payments, e.g. authorised deductions of union membership fees);
- Soliciting, receiving, obtaining or agreeing to obtain a prohibited payment.

The proposed maximum penalties for some of these offences are fines of up to A$900,000 and/or 10 years' imprisonment for an individual, and fines of up to A$4.5 million for an organisation. These very strong penalties are aimed at preventing situations, such as those considered by the Royal Commission, in which employers have secretly transferred large amounts of money to unions or their officials (in some instances to ensure 'industrial peace' for a period of time).

In addition, the Bill proposes to introduce new requirements that employers, employer organisations and unions must disclose any financial benefits that they would obtain under a proposed enterprise agreement (backed up by civil penalties). These requirements are intended to ensure that employees who will be covered by an agreement are aware of any financial transactions between the negotiating parties when they vote on the agreement.

Click here to view **2016 edition**

Important: action likely required

Good to know: follow developments

Note changes: no action required

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CONTRIBUTED BY: CORRS CHAMBERS WESTGARTH lawyers

LOOKING BACK

CHINA

12 JAN 2017

Circular of the Ministry of Human Resources and Social Security and the Ministry of Finance on Matters Relating to the Transfer and Continuation of Basic Endowment Insurance Relations and Occupational Annuities of Organisations and Public Institutions

On January, 12 2017, the Ministry of Human Resources and Social Security and the Ministry of Finance issued the Circular on Matters Relating to the Transfer and Continuation of Basic Endowment Insurance Relations and Occupational Annuities of Organisations and Public Institutions (the "Circular"). Since commencement on October 1, 2014, the Circular makes arrangements with regard to matters such as the transfer and continuation of basic endowment insurance , parameters for calculation and payment of benefits, handling of multiple endowment insurance, and the transfer and continuation of occupational annuities. The Circular provides that, where an insured employee moves between organisations and public institutions within an area under the same planning zone for basic endowment insurance, only his or her endowment insurance needs to be transferred, funds do not need to be transferred. Where an insured employee moves from an organisation or public institution to an enterprise, the funds need to be transferred together with the basic endowment insurance. Where an insured employee moves between the organisations and public institutions within areas under different planning zone for basic endowment insurance, or from an organisation or public institution to an enterprise, the deposits of individual contributions included in his or her individual account for basic endowment insurance shall be transferred in full; and the contributions made by his or her employer shall be transferred at the rate of 12% of the total sum, using the actual annual wages for payment by individuals after annual review as the base, if the payment period is less than one year, the percentage of payment to be transferred shall be calculated according to the number of months contributions were made.

More...

CHINA

17 JAN 2017

Circular of the General Office of the Ministry of Human Resources and Social Security on Implementing the Agreement on Social Security between China And Finland

The Ministry of Human Resources and Social Security ("MOHRSS") has issued the Circular on Implementing the Agreement on Social Security between China and Finland (the "Circular"), clearly states that the Agreement on Social Security between the Government of the People's Republic of China and the Government of the Republic of Finland (the "Agreement") entered into force as of February 1, 2017. According to the Circular, the Agreement includes the scope of reciprocally exempted insurances, Chinese individuals eligible to relevant exempted social insurance contributions in Finland, Finland individuals eligible to relevant exempted social insurance contributions in China, the duration for the exemption of social insurance contributions, and other contents. In particular, the scope of reciprocally exempted insurances includes the basic endowment insurance and unemployment insurance for employees in China; and the annuity and unemployment insurance for the aged, the disabled and members of the deceased employees under the annuity plan relating to incomes in Finland, involving such personnel as follows: 1. dispatched personnel; 2. self-employed individuals; 3. employees working on sea-going vessels; 4. flight crew employed on board aircraft; 5. diplomatic personnel, consular officers and civil servants; and 6. exceptions. The duration, for the dispatched personnel and self-employed individuals who apply for an exemption for the first time, may last up to five years. In addition, the Circular also provides for administrative measures for exemption of relevant social insurance contributions permitted under the Agreement.

More...

CHINA

16 FEB 2017

Circular of the Ministry of Human Resources and Social Security and the Ministry of Finance on Issues concerning Reduction of Unemployment Insurance Premium Rate in phases

The Ministry of Human Resources and Social Security and the Ministry of Finance issued the Circular on Issues concerning Reduction of Unemployment Insurance Premium Rate in

Con't...

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Important: action likely required

Good to know: follow developments

Note changes: no action required

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16 FEB 2017

phases (the "Circular") on February 16 2017. The Circular contains the following provisions. Firstly, provinces (autonomous regions or municipalities) where the overall unemployment insurance premium rate is 1.5%, are allowed to reduce such overall premium rate to 1% from January 1, 2017, and the premium rate reduction shall be in force until April 30, 2018. The respective premium rate applicable to entities and individuals shall be harmonized across the relevant province (autonomous region or municipality), and the rate at which the premium is paid by individuals shall not be higher than that paid by entities. Specific plans shall be researched and determined respectively by each province (autonomous region or municipality). Secondly, provinces where the overall unemployment insurance premium rate which has already been lowered to 1% shall still be subject to the Circular of the Ministry of Human Resources and Social Security and the Ministry of Finance on Periodically Reducing Social Insurance Payment Rates. Thirdly, all places are required to take into full account the impacts on the payment capacity of the fund exerted by certain factors, such as the payment of unemployment insurance benefits in full and on time, raised benefits of unemployment insurance, promotion of reemployment for the unemployed, implementation of the policy on the employment stabilizing subsidy from the unemployment insurance fund, and making specific plans which shall not be in force until approved by the provincial government. These are required to be submitted to the Ministry of Human Resources and Social Security and the Ministry of Finance for record.

More...

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Important: action likely required

Good to know: follow developments

Note changes: no action required

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Important: action likely required

Good to know: follow developments

Note changes: no action required

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HONG KONG

13 JAN 2017

Promulgation of Code of Practice for Employment Agencies

The Labour Department (the "**LD**") has promulgated the Code of Practice for Employment Agencies (the "**CoP**") and launched an Employment Agencies Portal (the "**Portal**") on 13 January 2017.

The CoP lists out the salient statutory requirements which all employment agencies must observe, in particular, the requirements under the Employment Ordinance (Cap. 57), the Employment Agency Regulations (Cap. 57A), the Immigration Ordinance (Cap. 115) and the Personal Data (Privacy) Ordinance (Cap. 486). It also sets out the minimum standards which the Commissioner for Labour (the "**Commissioner**") expects from employment agency licensees, such as maintaining transparency in business operations, drawing up service agreements with job-seekers and employers and display of licences. When considering whether a person is a fit and proper person to operate an employment agency, the Commissioner will take into account whether a licensee has met or an applicant can meet these standards.

Compliance with the CoP is monitored by the Employment Agencies Administration of the LD, which has the power to issue warning letters to employment agencies for rectification of any irregularities. An unsatisfactory track record may also affect the Commissioner's decision of revoking, or refusing to grant or renew employment agency licences.

Under the laws of Hong Kong, all employment agencies are required to obtain a licence or Certificate of Exemption from the Commissioner before undertaking any job placement business.

Press Release
The CoP

HONG KONG

18 JAN 2017

Proposed Abolition of Mandatory Provident Fund ("MPF") Offsetting in the 2017 Policy Address

At present, an employer who is liable to pay an employee severance payment ("**SP**") or long service payment ("**LSP**") under the Employment Ordinance, can offset the SP or LSP with the accrued benefits derived from the employer's contributions made to an MPF scheme for the employee.

The Chief Executive has in the 2017 Policy Address proposed to progressively abolish the "offsetting" of SP or LSP systems with MPF contributions. The proposal contains 3 elements.

- The abolition will have no retrospective effect and employers will be allowed to offset before a specified implementation date;
- The amount of SP or LSP payable for an employment period from the implementation date will be adjusted downwards from two-thirds to half of an employee's monthly pay; and
- The Government will share part of the expenditure of SP or LSP of employers in the 10 years after the implementation date.

Following the abolition, the Government's next target is to develop an electronic system to facilitate the standardisation and automation of the MPF scheme administration.

No immediate action is required as it is unlikely that the MPF offsetting mechanism will be abolished this year, due to the time required for public consultation and legislative amendments. Nevertheless, employers should note the proposal and its subsequent developments.

Press Release
The 2017 Policy Address

HONG KONG

19 JAN 2017

Domestic Helper Wins Lawsuit against Employers for Sex Discrimination over Pregnancy Test

In the Hong Kong District Court decision of *Waliyah v. Yip Hoi Sun Terence and Chan Man Hong* (DCEO 1/2015 & DCCJ 1041/2015), a domestic helper succeeded in her claim for sex and pregnancy discrimination against her former employer and his wife who had asked her

Con't...

to take a pregnancy test and then terminated her employment after her pregnancy was confirmed.

Facts

The two respondents, R1 and R2, were husband and wife. The claimant ("C") was employed by R1 as a live-in maid. In October 2013, R2 (i.e., the wife) asked C to urinate into a potty for the purpose of a home-pregnancy test as it was observed that C's tummy was growing big. C took part in the test voluntarily as she was eager to know whether she was in fact pregnant. The pregnancy test indicated a positive result. R2 then took C to the hospital where C's pregnancy was confirmed and they considered C should undergo an abortion.

A couple of days after the pregnancy was confirmed, R1 gave C one month's notice of termination of employment. C was subsequently asked to move out of R1's home before the expiry of the notice period.

Claim

C's claims against R1 and R2 were for damages arising from sex and pregnancy discrimination, breach of the implied term of mutual trust and confidence in her contract of employment, breach of the Employment Ordinance and unlawful dismissal.

Court Findings

Had R2 committed any unlawful discriminatory act?

It is well established that the intention or motive to discriminate is irrelevant to determining liability for unlawful sex discrimination. The consent or co-operation of the employee is, likewise, not determinative. The consent or compliance could have been the result of the employee's general servile or subservient character or (similar to the present case), ignorance of legal rights.

The Court accepted that whether a female employee is pregnant is a private matter about which the employer has no right to know. If an employee was asked to take a pregnancy test in a supervised manner but was not given an option whether or not to inform the employer the result, then such request is capable of constituting a less favourable treatment on the ground of gender. This is because a male employee would not be asked to disclose such private information to his employer.

The Court ruled that R2's request for C to take the home-pregnancy test, notwithstanding C's willingness to comply with the request, amounted to a direct sex discrimination.

The termination of C's employment

The Court ruled that R1, who did not appear for the trial, would not have terminated C's employment and/or demanded C to leave his house but for her pregnancy. Apart from constituting unlawful pregnancy discrimination, R1's conduct was also held to have amounted to a breach of the implied term of trust of confidence, a breach of the Employment Ordinance regarding pregnancy protection and unlawful dismissal.

There was no evidence suggesting that R2 had played a role in the termination of C's employment and/or demanding C to leave R1's house. Hence, R2 was not liable for R1's conduct.

Lessons for Employers

Employers should not direct an employee to take a pregnancy test and to disclose the result solely for the purpose for ascertaining whether or not the employee is pregnant. Generally, an employee has the right to choose whether or not and if so, when to inform her employer of her pregnancy. There is no requirement under the Employment Ordinance as to when notice of pregnancy must be given to the employer. However, some of the protection available to a pregnant employee under the Employment Ordinance may not come into play until notice of pregnancy is given.

This case also serves as an important reminder to employers that an act would not be prevented from being discriminatory simply because of the absence of subjective intention or motive to discriminate or because the employee does not object to the request of an employer.

Judgment

Click here to view **2016 edition**

Important: action likely required

Good to know: follow developments

Note changes: no action required

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LOOKING BACK

HONG KONG
20 JAN 2017

Statutory Minimum Wage ("SMW") Likely to Rise to HK$34.5 per hour in May 2017

On 20 January 2017, notice was gazetted to increase the SMW rate to HK$34.50 per hour (up from the current HK$32.50 per hour). Subject to approval by the Legislative Council, the new rate will come into effect on 1 May 2017. To reflect the change to the SMW rate, the current HK$13,300 monthly cap (above which an employer is not required to keep a written record of the employee's hours worked) will be increased to HK$14,100 per month.

Employers should take steps to update their payroll procedures to reflect this change.

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HONG KONG
27 JAN 2017

Standard Working Hours Report Submitted to the Chief Executive

The Standard Working Hours Committee submitted its report on working hours policy to the Chief Executive. The Government is recommended to:

- Adopt a legislative approach to mandate employers to enter into written employment contracts with the lower-income grass-roots employees, which shall include terms on working hours and overtime compensation arrangements.
- Adopt a legislative approach to specify that the lower-income grass-roots employees should be entitled to overtime compensation by way of overtime pay at a rate no less than the rate of the agreed wages (under) or the equivalent time-off in lieu, so as to further protect these lower-income employees
- Through the existing industry-based tripartite committees and setting up new ones for other sectors with relatively long working hours, to continuously engage in stakeholders from sectors, with a view to formulating sector-specific guidelines setting out suggested working hours standards, overtime compensation methods and good working hours management measures for employers' reference and adoption so as to improve employees' working hours arrangements; and
- Monitor the implementation of the above recommendations and review their effectiveness after two years of implementation, and continue to explore through an appropriate tripartite platform the need for Standard Working Hours legislation

No action is required at this stage, but employers should follow developments to see how the recommendations are addressed by the Government.

Full Report
Press Release

HONG KONG
9 MAR 2017

Joint Statement Calling for Anti-Discrimination Laws Covering LGBTI Rights

The Equal Opportunities Commission ("**EOC**") has issued a joint statement with the Gender Research Centre and The Chinese University of Hong Kong, urging the Government to launch a public consultation and introduce legislation against discrimination on the grounds of sexual orientation, gender identity and intersex status as soon as possible. The statement was supported by 75 other organizations and academics across different sectors.

No action is required at this stage, but employers should note that the statement indicates increased public recognition of the LBGTI rights.

Press Release

HONG KONG
17 MAR 2017

Can Conduct at a Private Function Amount to a Conflict of Interest Disentitling the Employee to an End of Contract Gratuity?

The Hong Kong Court of First Instance held in *Chok Kin Ming v Equal Opportunities Commission* (HCLA 42/2015) that an employee's conduct during a private function could amount to a conflict of interest disentitling the employee to an end of contract gratuity under the terms of that contract of employment. The Court allowed the Equal Opportunity Commission's ("**EOC**") appeal and set aside the Labour Tribunal (the "**Tribunal**") order that it had wrongfully not paid the end of contract gratuity.

Con't...

Facts

The employee had been employed by the appellant, EOC, since 1996 under fixed term contracts of employment and was appointed as a Chief Equal Opportunities Officer subsequently. The employment contract provided for an end of contract gratuity if there is *"satisfactory completion of the agreement in the opinion of the employer"*.

The EOC's Code of Conduct imposed obligations on every employee

- To avoid situations of conflicts with the EOC (including involvement in any activity outside which compromises his/her ability to act with total objectivity)
- To report actual or potential situations of conflicts and make full disclosure

From August to October 2014, the EOC conducted a public consultation on discrimination law review ("**DLR**") and the employee was a key member on the DLR taskforce. Some of the questions presented for consultation related to de facto and same-sex relationships. The EOC's role in the DLR consultation was to be impartial.

The employee attended to a church forum in a personal capacity to introduce and explain the DLR consultation. During the forum the employee had urged the audience to answer particular questions in a certain way, told them how to respond to maximize the number of responses so that it did not look like their letters were produced by "cut and paste", told the audience that he had objected to the EOC's proposal to include same-sex relationships within the protection of de facto marriage and encouraged them to oppose the proposal.

The forum was recorded without the employee's knowledge and was subsequently reported in the media. The employee and the EOC were criticized and the credibility of the DLR was put into doubt. In a subsequent internal investigation, the employee was found to have breached the Code of Conduct by placing himself in a position of conflict and his duty of fidelity and good faith. The EOC did not renew the employee's contract of employment and on expiry of the contract decided not to pay the end of contract gratuity as they did not consider that there had been "satisfactory completion" of the employment contract.

Tribunal Findings

The employee was successful in his claim for the end of contract gratuity in the Tribunal. The key findings by the Tribunal are, in summary:

- "Satisfactory completion" referred to temporal completion (ie. just finishing the three-year term) and the EOC could not take into account the employee's work performance.
- The employee had been invited to and attended the forum, which was a private function, in a personal capacity and his own time, and it had nothing to do with his work performance.
- The employee had the freedom to express his opinions in his personal capacity about the DLR consultation.
- On the balance of probabilities of what the employee said and did at the forum, there was no conflict of interest and nor did it impact on his work performance.

Court Findings

On appeal, the Court held that the expression "satisfactory completion" (as a matter of construction of the contract) did not only refer to the dimension of time, but also included the quality of the employee's performance. As such, the manner in which the contract of employment was completed was a condition for payment of the gratuity.

Next, the Court considered whether the Tribunal failed to apply the correct legal test in ruling that the EOC wrongfully failed to pay the gratuity. The Court held that where the employer has a discretionary power under the contract of employment such as payment of a bonus, a breach of contract is to be established by showing that the employer's decision was irrational or perverse. In other words, where no reasonable employer would have exercised the discretion in the same way. That discretion is not to be treated as wholly unfettered, but the court does not substitute its own opinion.

In this regard, the Court said

> *"It is one thing for an employee to criticise his employer during a private dinner*

Con't...

HONG KONG

17 MAR

2017

> *with friends — and the employer may well be acting perversely if he withholds the gratuity for this reason — but it is in my opinion quite another thing for the employee (who has a key role in a supposedly impartial public consultation exercise and who is introduced to the forum as an insider) to denigrate the DLR in front of 50 or 200 seminar participants, to urge them to respond to a number of questions in a particular way, and to offer assistance to make their response appear independent and attract weight."*

The Court did not consider that the Code of Conduct sought to suppress the freedom of expression of the employee. It sought to avoid potential conflict situations between the employee's outside activities and his work in the EOC.

The Court allowed the appeal and set aside the order of the Tribunal. It held that as it did not have jurisdiction to reverse findings of fact it remitted the matter back to the Tribunal for determination.

Lessons for Employers

End of contract gratuity payments can be made subject to the performance of the employee during the period of employment. An employer who wishes to impose this condition should be careful to make this clear in the contractual terms.

An employee's conduct outside of work can give rise to a conflict of interest with those of his/her employer's interest. Employers should clearly set out in their contract or policy the situations which may give rise to a conflict. This will help manage expectations of the employee and, should the need arise, breach by the employee.

Employers are reminded that where they have a discretion to exercise under a contract of employment, the exercise of that discretion is not unfettered and must be exercised not irrationally or perversely.

Judgment

HONG KONG

20 MAR

2017

Lawmaker's Initial Assessment of Equal Opportunities Commission's Recommendations to Reform Anti-Discrimination Legislation

Among the 27 issues which were highlighted by Hong Kong's Equal Opportunities Commission ("**EOC**") as higher priority for discrimination law reform, the lawmakers have identified 9 recommendations which are likely to drive consensus among stakeholders and society, with a view to taking forward necessary legislative amendments in a step-by-step manner. They can be summarised as follow:

1. To introduce express provisions in Family Status Discrimination Ordinance ("**FSDO**") or Sex Discrimination Ordinance ("**SDO**") prohibiting direct and indirect discrimination on grounds of breastfeeding and to include expressing milk in the definition of breastfeeding.
2. To amend provisions in the Race Discrimination Ordinance ("**RDO**") that prohibit direct discrimination on the ground of race of a "near relative" by replacing the definition of "near relative" with "associate" which is wider in scope, and to include protection from direct discrimination by perception or imputation that a person is of a particular racial group.
3. To expand the scope of protection from sexual, disability and racial harassment, including
   - Protection from direct discrimination and harassment by perception or imputation that a person is of a particular racial group;
   - Protection from sexual, racial and disability harassment to persons in a common workplace;
   - Protection from racial and disability harassment of service providers by service users, including harassment that takes place on Hong Kong registered aircraft and ships;
   - Protection of tenants/subtenants from sexual, racial or disability harassment by another occupying the same premises; and
   - Protection from sexual, racial and disability harassment by management of clubs of members.

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HONG KONG

20 MAR 2017

4. To align the 4 anti-discrimination ordinances by repealing provisions under SDO, FSDO and RDO which require proof of intention to discriminate in order to obtain damages for indirect discrimination.

No action is required at this stage as it is likely that the Government will conduct further consultation on the prioritized recommendations before proposing any legislations. However, employers should note that these findings indicate a tendency towards more anti-discrimination protection in the society.

EOC's submissions to LegCo

Click here to view **2016 edition**

Important: action likely required

Good to know: follow developments

Note changes: no action required

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Important: action likely required

Good to know: follow developments

Note changes: no action required

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INDIA
6 DEC 2016

Payment of Bonus Amendment Rules, 2016 (the "PB Amendment Rules")

The Ministry of Labour and Employment has published the PB Amendment Rules, which omit the proviso to rule 5(1) of the Payment of Bonus Rules, 1975. Rule 5 requires every employer to upload annual returns on or before 1 February each year. The proviso to rule 5(1) states that an annual return shall be filed by an employer within the timeline specified under section 19 of the Payment of Bonus Act, 1965 (the "**PB Act**"). Section 19 of the PB Act prescribes the timeline only for making bonus payments, whereas the proviso to rule 5(1) discusses the timeline for filing annual returns under the PB Act. Accordingly, the said proviso has been omitted to eliminate the inconsistency, since these two timelines are for different purposes.

More...

INDIA
14 DEC 2016

Draft Child Labour (Prohibition and Regulation) Amendment Rules, 2016 (the "**Draft Amendment Rules**")

Consequent to the enactment of the Child Labour (Prohibition and Regulation) Amendment Act, 2016 (the "**Amendment Act**"), the Ministry of Labour and Employment has released the corresponding Draft Amendment Rules. The Draft Amendment Rules inter alia prescribe the measures to be taken by the government for preventing child labour, specify the conditions subject to which a child may be allowed to work, includes conditions around working hours and payment of remuneration, etc.

The Draft Amendment Rules are published with a consultation period of 30 days from 14 December 2016 during which stakeholders can submit their objections and suggestions, for consideration by the government.

More...

INDIA
19 DEC 2016

The Contract Labour [Regulation and Abolition] [Karnataka] [Amendment] Rules, 2016 (the "**CLRA Karnataka Amendment Rules**")

The Government of Karnataka has introduced the CLRA Karnataka Amendment Rules to amend the Karnataka Contract Labour [Regulation and Abolition] [Karnataka] Rules, 1974 (the "**Karnataka CLRA Rules**"). The Rule 25(2) (ix) of the Karnataka CLRA Rules provided that no female contract labourer shall be employed by any contractor before 6.00 am or after 7.00 pm. The CLRA Karnataka Amendment Rules omit Rule 25(2) (ix) and entries relating thereto and lift the prohibition on employing female contract labourers at night, subject to certain conditions such as that the woman employee(s) is willing to work, there is more than one woman employee during the night, transport facilities from the residence to workplace and back are provided free of cost and with adequate security, adequate number of security guards are posted during the night shift, etc.

The CLRA Karnataka Rules shall come into force from the date of their publication in the Official Gazette.

INDIA
20 DEC 2016

Employees State Insurance Scheme to Promote Registration of Employers/Employees (the "**SPREE**")

The Employees State Insurance Corporation has announced the SPREE to encourage registration of establishments, factories and employees coverable under the Employee's State Insurance Act, 1948 (the "**ESI Act**"). An establishment that obtains an ESI Act registration under the SPREE will be treated as being covered from the date declared/date of registration. As a result, it would be able to avoid penalties for any past period of liability (potential penalties range from fines to imprisonment for up to one year), unless the ESI authorities have already initiated proceedings prior to 20 December 2016 for irregularities/ non-compliance under the ESI Act. The SPREE ends on 31 March, 2017.

More...

INDIA
22 DEC 2016

Employees' State Insurance (Central) Third Amendment Rules, 2016 (the "**ESI Third Amendment**")

The ESI Third Amendment has increased the wage threshold for coverage under the Employee's State Insurance Act, 1948 from INR 15,000 to INR 21000, with effect from 1 January 2017.

More...

LOOKING BACK

INDIA
22 DEC
2016

Online Filing of Returns by Exempted/Relaxed Establishments

The EPFO has issued a circular providing the following information about the unified portal that it is in the process of developing:

- Filing of online returns for exempted establishments is currently integrated in the ECR portal, however this portal was to be stopped from December 2016.
- Filing of online returns will be deployed on the Unified Portal being developed by CDAC once development and testing is completed.
- Therefore, exempted return and MIS Dashboard will not be available in the interim until it is deployed on the Unified Portal.

Since exempted and relaxed establishments are required to file monthly online returns in a sequential manner, such establishments must keep the data ready for months where the online filing portal is not functional, and must make filings for the pending months once the online portal is deployed.

More...

INDIA
27 DEC
2016

Guidelines for Processing Cases of Surrender of Employees' Provident Fund Exemption (the "**EPF Exemption Surrender Guidelines**")

The Employees' Provident Fund Organisation has issued the EPF Exemption Surrender Guidelines to set out the process followed for surrender of Employees' Provident Fund exemption by employers. The procedure to be followed is set out below:

- The employer must address an application to the Regional Provident Fund Commissioner ("RPFC") and the appropriate government.
- The application should be supported by the central board of trustees and a copy of the notification or order must be issued by the appropriate government granting an exemption in favour of the establishment.
- In case the exempted establishment is unable to maintain the provident fund trust and intends to surrender its exemption, the RPFC will then facilitate transfer of funds from the employer's trust to the statutory fund and ensure compliance of the establishment as un-exempted from the date specified in the application. The RPFC will also get the trust fund audited by a third party auditor to obtain an assessment report pertaining to such fund and furnish a certificate as to whether the establishment has violated any term or condition of grant of exemption.

More...

INDIA
28 DEC
2016

The Rights of Persons with Disabilities Act, 2016 (the "**Disabilities Act**")

The Disabilities Act has been enacted to give effect to the United Nations Convention on the Rights of Persons with Disabilities. In relation to private employers, the Disabilities Act imposes the following obligations:

- Every establishment should notify an equal opportunity policy, detailing the measures proposed to be taken by such establishment in pursuance of the provisions of the Disabilities Act around skill development and employment;
- Every establishment is required to register a copy of its equal opportunity policy with the authority appointed under the Disabilities Act; and
- Every establishment is required to maintain records of persons with disabilities in relation to the matter of employment, facilities provided and other necessary information as prescribed.

The Disabilities Act will come into force on a date that is appointed by the Central Government by notification in the Official Gazette.

More...

INDIA
30 DEC
2016

Employees' Provident Funds (Seventh Amendment) Scheme, 2016 (the "**EPF Seventh Amendment Scheme**")

The Ministry of Labour and Employment has notified the EPF Seventh Amendment Scheme, which inserts paragraph 82A in the Employee's Provident Funds Scheme, 1952

Con't

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Important: action likely required

Good to know: follow developments

Note changes: no action required

Looking Back

Looking Forward

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Important: action likely required

Good to know: follow developments

Note changes: no action required

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INDIA

30 DEC 2016

("**EPF Scheme**"). Paragraph 82A makes a special provision for the Employee's Enrolment Campaign, 2017, which will be in force between 1 January 2017 and 31 March 2017. The important points are as follows:

- Every employer who has failed to comply with the provisions of the EPF Scheme in relation to membership of employees and contribution thereto to the EPF Scheme shall furnish a declaration in the prescribed form ("Declaration") to the Regional Provident Fund Commissioner ("RPFC") in respect of membership of the employees who were required or entitled to become members of the EPF Scheme in the period beginning 1 April 2009 and ending 31 December 2016 but were not enrolled as members for any reason. Within 15 days from making such Declaration, the employer shall remit the employer's contribution payable in accordance with the provisions of the EPF Scheme and the employee's contribution (where deducted from the employee's wages) along with interest payable. The employer shall file a return of compliance with this provision to the RPFC.
- If the employer fails to remit the contribution, interest and damages payable by him within the 15 day window, the Declaration sent by the employer shall be deemed to have not been made under the EPF Seventh Amendment Scheme.
- Where a Declaration has been made by misrepresentation or suppression of facts, it shall be void and shall be deemed to have not been made under this EPF Seventh Amendment Scheme and the person making such Declaration shall be liable to punishment.
- A proviso has been inserted, which provides for the waiver of the employee's contribution under the Employees' Enrolment Campaign, 2017 between 1 April 2009 and 31 December 2016.
- For any period of default between 1 April 2009 and 31 December 2016 for any remittances in respect of valid declarations under Employees' Enrolment Campaign, 2017, the rate of damages will be one rupee per annum.
- The administrative charges payable under Employees' Enrolment Campaign, 2017 for the period of 1 April 2009 to 31 December 2016 shall be nil.

More...

INDIA

30 DEC 2016

Employees' Deposit Linked Insurance (Second Amendment) Scheme, 2016 (the "**EDLI Second Amendment**")

The Ministry of Labour and Employment has notified the EDLI Second Amendment which inserts paragraph 28A in the Employees' Deposit Linked Insurance Scheme, 1976. The paragraph specifies the rate of damages to be recovered for default in payment of any contribution in relation to employees who have become members under the Employees' Enrolment Campaign, 2017 and to whom the Employees' Deposit Linked Insurance Scheme applies. The rate of damages specified is one rupee per annum.

The EDLI Second Amendment shall be in effect from 1 January 2017 to 31 March 2017.

More...

INDIA

30 DEC 2016

Employees' Pension (Seventh Amendment) Scheme, 2016 (the "**Pension Seventh Amendment**")

The Ministry of Labour and Employment has notified the Pension Seventh Amendment which inserts paragraph 43B in the Employees' Pension Scheme, 1995. The paragraph specifies the rate of damages to be recovered for default in payment of any contribution in relation to employees who have become members under the Employees' Enrolment Campaign, 2017 and to whom the Employees' Deposit Linked Insurance Scheme applies. The rate of damages specified is one rupee per annum. The Pension Seventh Amendment shall be in effect from 1 January 2017 to 31 March 2017.

More...

LOOKING BACK

INDIA
30 DEC
2016

Amendment to Notification No. SO 324(E) issued by the Ministry of Labour and Employment

The Ministry of Labour and Employment has made the amendment to the Ministry of Labour and Employment notification number S.O. 324(E), dated 2 February 2015 ("**Notification**").

- The Notification earlier provided that the administrative charges payable by the employer for the purposes of paragraph 30 and Paragraph 38(1) of the Employees' Provident Fund Scheme shall be 0.85% of the pay, subject to a minimum of INR 75 per month for establishments with no contributory number and INR 500 per month for other establishments.
- The amendment to the Notification inserts a second proviso setting out that for any employees whose membership has been declared as per the Employees' Enrolment Campaign, 2017, the employer would not be required to pay any additional sums to the Deposit-linked Insurance Fund other than expenses towards the cost of benefits provided.

More...

INDIA
4 JAN
2017

Employees' Provident Funds (Amendment) Scheme, 2017

The Ministry of Labour and Employment has notified the Employees' Provident Funds (Amendment) Scheme, 2017 which amends paragraph 38 and paragraph 48 of Employees' Provident Funds Scheme, 1952. As per the amendment to paragraph 38, an employer can now also pay the contributions to the provident fund through scheduled banks in India including private sector banks. As per the amendment to paragraph 48, the commissioner can now also deposit the bank drafts and cheques received from the employers through scheduled banks in India including private sector banks

More...

INDIA
4 JAN
2017

Use of Aadhaar as Identity Document for Delivery of Services or Benefits or Subsidies Under the Employees' Pension Scheme, 1995

The Ministry of Labour and Employment has issued a notification setting out the following information in relation to use of Aadhaar documentation:

- Members and pensioners of the Employees' Pension Scheme have to furnish proof of the possession of the Aadhaar number or undergo Aadhaar authentication as per the procedure laid down by the Employees Provident Fund Organisation in order to avail the benefits under the scheme such as Central Government's contribution and subsidy.
- Members or pensioners who are currently not enrolled for Aadhaar will have to make an application for Aadhaar enrolment by 31 January 2017. Till the time Aadhaar is assigned, benefits shall be given based on the alternate and viable means of identification.

More...

INDIA
5 JAN
2017

Contract Labour (Regulation and Abolition) (Maharashtra Amendment) Act, 2016 (the "**CLRA Maharashtra Amendment Act**")

The CLRA Maharashtra Amendment Act amended the Contract Labour (Regulation and Abolition) Act, 1970 (the "**CLRA Act**") and increased the threshold for applicability of the CLRA Act within the state of Maharashtra. The threshold has been increased from 20 or more contract workers to 50 or more contract workers. After the amendment, the provisions of the CLRA Act, including the requirement to obtain a registration or license will not apply to establishments in Maharashtra that engage less than 50 contract workers, or to contractors in Maharashtra who employ less than 50 contract workers.

More...

INDIA
20 JAN
2017

Employees' State Insurance (Central) (Amendment) Rules, 2016 (the "**ESI Amendment Rules**") to extend maternity benefits under the ESI Act to adoption and surrogacy

The ESI Amendment Rules modified the Employees' State Insurance Rules in the following

Con't...

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Important: action likely required

Good to know: follow developments

Note changes: no action required

Looking Back

Looking Forward

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INDIA 20 JAN 2017

manner:

- Extends the period of maternity benefit from the existing 12 weeks (of which not more than 6 weeks shall be before the expected date of confinement) to 26 weeks (of which not more than 8 weeks shall be before the expected date of confinement). However, a woman having 2 or more surviving children would be entitled to 12 weeks of maternity benefit (of which not more than 6 weeks shall be before the expected date of confinement).
- Introduces maternity benefit for a period of up to 12 weeks for commissioning mothers and adopting mothers.

More...

INDIA 31 JAN 2017

Delhi Factories (Amendment) Rules, 2017 (the "**Draft Delhi Factories Amendment Rules**")

The Government of the National Capital Territory of Delhi has notified the Draft Delhi Factories Amendment Rules to amend Rule 5 and Rule 7 of the Delhi Factories Rules, 1950 (**Delhi Factories Rules**). Rule 5 provides for the Grant of License which includes provisions relating to the fees applicable and the periods for which the renewal license for a factory can be granted and Rule 7 provides for the renewal of license. The Draft Delhi Factories Amendment Rules seek to extend the maximum time period for the grant and renewal of the license from 5 years to 10 years, and update the provision relating to fees accordingly.

The Draft Delhi Factories Amendment Rules are published with a consultation period of 45 days from the date of publication i.e. 31 January 2016 and stakeholders can submit their objections or suggestions, for consideration by the government.

More...

INDIA 9 FEB 2017

Rationalisation of Forms and Reports under Certain Labour Laws Rules, 2017 (the "**Draft Rationalisation of Forms Rules**")

The Ministry of Labour and Employment has notified the Draft Rationalisation of Forms Rules, which provides for combined and simplified forms and reports required to be maintained for compliance under the following labour laws:

- Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996;
- Contract Labour (Regulation and Abolition) Act, 1970;
- Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979;

Under these rules, the combined forms and reports can be maintained electronically or otherwise. The Schedule of the Draft Rationalisation of Forms Rules provides formats for 12 forms and reports, including for the licence/renewal of license application, Form of Certification by Principal Employer, Service Certificate, Certificate of Medical Examination and Employment Card.

The Draft Rationalisation of Forms Rules are published with a consultation period of 30 days from the date of publication i.e. 9 February 2016 and stakeholders can submit their objections or suggestions, for consideration by the government.

More...

INDIA 10 FEB 2017

Industrial Employment (Standing Orders) Central (Amendment) Rules, 2017 (the "**Draft SO Amendment Rules**")

The Ministry of Labour and Employment has notified the Draft SO Amendment Rules, which seeks to amend the Industrial Employment (Standing Orders) Central Rules, 1946 (**SO Rules**). The Draft SO Amendment Rules propose to:

- Amend Rule 5 of the SO rules, in order to add an obligation to disclose the number of fixed term employment workmen in the made-up sector, in addition to the other prescribed particulars while submitting the draft standing orders to the Certifying

Con't...

INDIA
10 FEB
2017

Officer as per Section 3 of the Industrial Employment (Standing Orders) Act, 1946;

- Amend the Model Standing Orders set out in Schedule I, in order to:
- Add "fixed term employment workmen in the made-up sector" to the classification of workmen in paragraph 2A;
- Include the fixed term employment workmen in the made-up sector, within the provision for the "fixed term employment workmen in apparel manufacturing sector" in paragraph 2(b)(h). By this inclusion, a fixed term employment workmen in the made-up sector is a workman who has been engaged on the basis of contract of employment for a fixed period. However, his working hours, wages, allowances and other benefits shall not be less than that of a permanent workman. He shall also be eligible for all statutory benefits available to a permanent workman proportionately according to the period of service rendered by him even though his period of employment does not extend to the qualifying period of employment required in the statute.
- Add "fixed term employment workmen in the made-up sector" to the category of temporary workmen specified in paragraph 13, who would not be entitled to any notice or pay in lieu of notice if his services are terminated as a result of nonrenewal of contract or employment or on its expiry.

The Draft SO Amendment Rules are published with a consultation period of 30 days from the date of publication i.e., 10 February 2016 and stakeholders can submit their objections or suggestions, for consideration by the government.

More...

INDIA
16 FEB
2017

Payment of Wages (Amendment) Act, 2017 (the "**Payment of Wages Amendment Act**")

The Payment of Wages Amendment Act has amended section 6 of the Payment of Wages Act, 1936 (**PW Act**) so as to permit the crediting of wages to the bank account of the employees or payment through cheque in addition to the existing provisions of payment in current coin or currency notes. The amendment also provides that the appropriate government can notify specific industrial or other establishment, the employer of which has to pay the wages only through cheque or crediting to the bank account.

* (deemed to have come into force from 28 December 2016)

More...

INDIA
21 FEB
2017

Ease of Compliance to Maintain Registers under Various Labour Laws, 2017 (the "**Ease of Compliance Rules**")

The Ministry of Labour and Employment has notified the Ease of Compliance Rules, which provides for a combined register for ease of compliance with the requirements around maintaining registers under the following labour laws:

- Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996;
- Contract Labour (Regulation and Abolition) Act, 1970;
- Equal Remuneration Act, 1976;
- Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979;
- Mines Act, 1952;
- Minimum Wages Act, 1948;
- Payment of Wages Act, 1936;
- Sales Promotion Employees (Conditions of Service) Act, 1976; and
- Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955.

The combined register can be maintained electronically or otherwise. Schedule A of the Ease of Compliance Rules provides formats for employee register, wage register, loan recoveries register, attendance register and a register of rest/leave/leave wages.

More...

LOOKING BACK

INDIA
7 MAR
2017

Contract Labour (Regulation & Abolition) Central (Amendment) Rules, 2017 (the **Draft CLRA Amendment Rules**)

The Ministry of Labour and Employment has notified the Draft CLRA Amendment Rules. The Draft CLRA Amendment Rules propose to make the following changes to the Contract Labour (Regulation & Abolition) Central Rules, 1971:

- Amend Rule 82, so as to provide for online filing of annual returns by the contractor and the principal employer in the Unified Annual Return in the new Form XXIV.
- Substitute the current "return to be sent by the contractor to the licensing officer" (Form XXIV) and the "annual return of the principal employer to be sent to the registering officer"(Form XIV) with the Unified Annual Return (Form XXIV).

The Draft CLRA Amendment Rules are published with a consultation period of 30 days from the date of publication i.e. 7 March 2016 and stakeholders can submit their objections or suggestions, for consideration by the government.

More...

INDIA
9 MAR
2017

Maternity Benefit (Amendment) Bill, 2016 (the "**MB Bill**")

The Lok Sabha passed the MB Amendment Bill on 9 March 2017. The MB Bill seeks to amend the Maternity Benefit Act, 1961 (the "MB Act"). The changes proposed by the MB Bill include the following:

- Increasing maternity leave from 12 to 26 weeks (of which not more than 6 weeks shall precede the expected date of delivery), provided that a woman with 2 or more surviving children is to be entitled to 12 weeks' maternity leave (of which not more than 6 weeks shall precede the expected date of her delivery).
- With respect to surrogacy, a commissioning mother (who uses her egg to create an embryo to be implanted in another woman) will receive 12 weeks' leave from the date when the child is transferred to her care.
- Paid adoption leave of 12 weeks from the date when the child is transferred to the adoptive mother's care, provided the child is less than 3 months old.
- Work from home benefits after the period of maternity leave, on such terms as may be agreed between the employer and the mother.
- Every establishment with 50 or more employees to provide crèche facilities within a prescribed distance. The mother will be allowed 4 visits to the crèche in a day, which will include her statutory interval for rest.

The MB Bill has already been passed by the Rajya Sabha and requires the President's assent in order to become a law.

More...

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Important: action likely required

Good to know: follow developments

Note changes: no action required

Looking Back

Looking Forward

CONTRIBUTED BY: TRILEGAL

LOOKING BACK

INDONESIA
16 NOV 2016

Procedures for Labor Inspection

MOM Regulation No.33 of 2016 regarding Procedures for Labor Inspection was issued on November 16, 2016 ("MOM 33").

Under MOM 33, the employer and the employee will understand the mechanism of Labor Inspection in the company. MOM 33 also provides sample of forms on planning, execution and reporting mechanism during labor inspection in the company by the Labor Inspector.

MOM 33 is the implementation of Article 22 (2) of Presidential Regulation No.21 of 2010 regarding Labor Inspection.

INDONESIA
27 DEC 2016

Ministry of Manpower Regulation regarding Health and Safety for Pressurized Equipment

MOM has issued Regulation No. 37 of 2016 dated December 27, 2016 regarding Health and Safety for Pressurized Equipment ("Reg.37").

Under Reg.37 regulates the implementation of health and safety in the workplace from potential hazardous from Pressurized Equipment. Reg.37 also provides sample of application forms related to Health and Safety for Pressurized Equipment that will be used by the company and MOM.

Reg.No.37 revokes (i) the previous MOM Reg No.01/Men/1985 regarding the same; (ii) the Circular Letter of MOM No.SE.No.06/1990 regarding Coloration of Steel Bottle or Pressurized Equipment, and (iii) the Decision of Director General for Guidance and Supervision of Labor Inspector No.Kep/75/PPK/XII/2013 regarding Technical Guidance for Health and Safety Expert Candidate in the field of Steam, Production, Lifting and Transport Equipment specifically for Expert Candidate in the field of Steam, Production, Lifting and Transport Equipment.

INDONESIA
27 DEC 2016

Ministry of Manpower Regulation regarding Health and Safety for Power and Production Equipment

MOM has issued Regulation No. 38 of 2016 dated December 27, 2016 regarding Health and Safety for Power and Production Equipment ("Reg.38").

Under Reg.38 regulates the implementation of health and safety in the workplace from potential hazardous of power and production equipment. Reg.38 provides sample of forms on Health and Safety for Power and Production Equipment related documents that will be used by the company and MOM.

Reg.No.38 revokes (i) the previous MOM Reg No.04/Men/1985 regarding the same; (ii) the Circular Letter of Director General for Guidance and Supervision of Labor Inspector No.SE. No.01/DJPKK/VI/2009 regarding Technical Guidance on Implementation of Guidance and Examination of Health and Safety License to Officers and Operators of Steam, Production, Lifting and Transport Equipment; and (iii) the Decision of Director General for Guidance and Supervision of Labor Inspector No.Kep/75/PPK/XII/2013 regarding Technical Guidance for Health and Safety Expert Candidate in the field of Steam, Production, Lifting and Transport Equipment specifically for Expert Candidate in the field of Steam, Production, Lifting and Transport Equipment .

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Important: action likely required

Good to know: follow developments

Note changes: no action required

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Looking Forward

CONTRIBUTED BY: SSEK Indonesian Legal Consultants

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Important: action likely required

Good to know: follow developments

Note changes: no action required

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Looking Forward

LOOKING BACK

JAPAN

1 JAN

2017

Amendments Regarding Child Care Leave and Family Care Leave

Amendments to the Employment Insurance Act and other relevant acts were enacted on March 29th, 2016. The purpose of these amendments is to enable employees to achieve a balance between their work and personal life (i.e., their need for childcare and family care) and to realize the "Promoting Dynamic Engagement of All Citizens" policy, which is one of the policy goals of Shinzo Abe Cabinet.

In this regard, the following amendments regarding child care Leave and family care leave have become effective from January 1st, 2017:

- To enable employees to take family care leave separately on multiple occasions (up to 3 times and 93 days in total);
- Besides taking family care leave, to enable employees to apply for shorter working hours more than 2 times during a three-year period in order to care for their family members;
- To enable employees to be exempted from overtime work in order to care for their family members;
- To enable employees to take childcare leave and family care leave in a half-day unit;
- To broaden the scope of children for whom employees can take childcare leave;
- To broaden the scope of fixed-term employees who are eligible to take childcare leave;

and

- To require employers to take necessary measures to prevent employees from harassing or bullying their colleagues on account of their pregnancy, delivery or taking childcare leave or family care leave.

More...

LOOKING FORWARD

JAPAN

2017

Amendments to Personal Information Protection Act

The long awaited amendments to the Personal Information Protection Act of Japan ("PIPA") will become fully effective on May 30 this year (the "Amendment"). PIPA is the primary privacy regulation in Japan, and regulates the collection, use and protection of personal information. It imposes obligations on information handlers, whether acting in their capacity as seller, supplier or employer. The Amendment generally expands the application in terms of both subject matter and geographical reach.

The Amendment will expand the scope of "Personal Information" regulated under PIPA, notably, to include information containing an individual identification code, for example passport numbers, and fingerprint and face recognition data. The Amendment also introduces the concept of Personal Information requiring Special Consideration (*yohairyo-kojinjoho*), which must be treated with special care. Personal Information requiring Special Consideration includes race, criminal records, medical history and any other information that may cause social discrimination. The Amendment also introduces the concept of "de-identified information" (*tokumei-kako-joho*), where anonymised information that is irreversibly processed as to prevent the identification of a specific individual is subject to more lenient regulations.

The current PIPA does not generally apply to entities outside Japan. The Amendment will expand the reach of PIPA to apply to foreign entities providing goods of services to people in Japan. Further, the current PIPA does not place any restrictions on the extraterritorial transfer of personal information. The Amendment will introduce additional protection obligations on information handlers transferring personal information to third parties overseas. The additional requirements for extraterritorial transfers will not apply where personal information is transferred to a place that has been certified by the Personal Information Protection Commission as having protection standards equivalent to those of Japan and where the foreign transferee has personal information protection standards which are equivalent to the standards specified by the Personal Information Protection Commission. There is currently no guidance on which countries are likely to fall within this category.

Con't

LOOKING FORWARD

JAPAN

2017

From May 30 this year, the Personal Information Protection Commission will oversee the enforcement of PIPA in addition to the individual identification number system for Japanese residents: the "My Number System". The Commission also has the power to provide information to foreign enforcement authorities to assist enforcement.

More...

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Important: action likely required

Good to know: follow developments

Note changes: no action required

Looking Back

Looking Forward

CONTRIBUTED BY: ANDERSON MŌRI & TOMOTSUNE

LOOKING BACK

MALAYSIA 2017

Self Employment Social Security Bill 2017

It has been reported that self-employed cabbies as well as Uber and Grab drivers will be covered under the Employment Injury Scheme (EIS) when the Self Employment Social Security Bill 2017 becomes law this year.

Social Security Organisation (SOCSO) Chief Executive Mohammed Azman Aziz Mohammed said that it will be compulsory for all self-employed taxi drivers to register with SOCSO under the scheme. The cabbies will make a contribution of 1.25% of their insured monthly income and their payment will range from RM157.20 (RM13.10 a month) to RM592.80 (RM49.40 a month).

Self-employed taxi drivers, who are exposed to accidents or occupational diseases while at work, will be covered under the EIS and their dependants will have social security protection in the event of death. Medical, temporary and permanent disablement, funeral and dependent's benefits (pensions) were among the areas covered under the scheme. Other benefits include constant-attendance allowance, education loan, physical and vocational rehabilitation facilities and the Return to Work Programme.

More...

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Important: action likely required

Good to know: follow developments

Note changes: no action required

Looking Back

Looking Forward

NEW ZEALAND

4 NOV 2016

New Zealand Basing Ltd v Brown [2016] NZCA 525, [2017] 2 NZLR 93

In *New Zealand Basing Ltd v Brown*, the Court of Appeal confirmed that overseas law (in this case Hong Kong) may apply to a New Zealand employment agreement. Mr Brown and Mr Sycamore were pilots employed by New Zealand Basing Ltd (a wholly owned Hong Kong subsidiary of Cathay Pacific). The employment agreement stipulated that the law of Hong Kong applied and there was a compulsory retirement age of 55 (which was lawful under Hong Kong law but unlawful under New Zealand law). Messrs Brown and Sycamore claimed that the agreement was governed by New Zealand law and so the compulsory retirement age was discriminatory under New Zealand's Employment Relations Act 2000 (ERA) and the Human Rights Act 1993. They alternatively argued the choice of Hong Kong law should not apply to the contract because of public policy grounds.

The Court of Appeal held that there is nothing in the ERA which would imply that its provisions would apply regardless of the parties' choice of law in their employment agreement. Accordingly, Hong Kong law was the proper law of the contract, so the ERA did not apply. The Court also held that there were no grounds for a public policy exception to the choice of law on the basis that the contract discriminated on the grounds of age. The Court considered that the right to be free from age discrimination was not absolute. The provision at issue would not "shock the conscience of a reasonable New Zealander's view of basic morality or violate an essential principle of justice or moral interests". The Court further held that there was no foundation for applying the public policy exception to defeat the private bargaining intentions of the parties, as the pilots had gained substantial financial benefits by choosing Hong Kong law.

The Supreme Court gave leave to appeal this decision in February 2017, and will hear the case in June 2017.

Court of Appeal Decision
Supreme Court Leave Decision

NEW ZEALAND

24 NOV 2016

Pay Equity Legislation

The Government announced it has plans to update the Equal Pay Act 1972 and the Employment Relations Act 2000 to implement the recommendations of the Joint Working Group on Pay Equity. The Government plans to introduce a Bill in 2017 that will make it easier for women to file pay equity claims with their employers and guide employers in responding to those claims. The government agreed to the recommendations with only one additional principle added.

The Joint Working Group was initiated following the Court of Appeal's decision in *Terranova Home Care Ltd v Service and Food Workers Union Nga Ringa Tota Inc* [2014] NZCA 516, [2015] 2 NZLR 437. In this case, the Court held that in female-dominated work, the Equal Pay Act 1972 required equal pay for work of equal value, not merely equal pay for the same work. This was a shift in how the Act had previously been understood. The Government responded to the decision by setting up the Joint Working Group to recommend principles for pay equity.

Government Announcement
Joint Working Group Recommendations

NEW ZEALAND

8 MAR 2017

Domestic Violence – Victims' Protection Bill

The Domestic Violence – Victims' Protection Bill was introduced to Parliament in December 2016 and had its first reading on 8 March 2017. The Bill seeks to enhance legal protections for domestic violence victims, specifically in relation to the workplace. The proposed Bill amends multiple Acts relating to employment:

Domestic Violence Act 1995

- Defines a "victim of domestic violence" for the purposes of other enactments. To qualify, a victim must be a able to produce a "domestic violence document" because they have suffered domestic violence or provide care and support to particular victims of domestic violence.
- A "domestic violence document" includes a variety of police and criminal records relating to domestic violence, as well as reports from medical practitioners or support organisations.

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LOOKING BACK

NEW ZEALAND

8 MAR

2017

Employment Relations Act 2000

- Provides a statutory right for an employee to make a request to vary their working arrangements if they are a victim of domestic violence. Sets out employers' duties in relation to an employee's request.
- Allows an employer to refuse an employee's request for a variation on particular grounds. These grounds relate to the staffing needs, productivity of the employer's business and cost to the business. An employer is obliged to refuse a request for variation if the employee is bound by a collective agreement and the working arrangements would be inconsistent with the collective agreement.
- Sets out a dispute resolution process if the employer declines the employee's request.
- Prohibits being a victim of domestic violence as a ground for discrimination.

Health and Safety at Work Act 2015

- Provides that person conducting a business or undertaking who manages or controls a workplace must have a policy for dealing with situations where a person's behavior stems from being either a victim or instigator of domestic violence, and is an actual or potential cause of harm to someone inside or outside a workplace.

Holidays Act 2003

- Allows an employee to take up to 10 days' leave if they are a victim of domestic violence, and they submit a request for leave according to the provides process

Domestic Violence – Victims' Protection Bill
Progress of Domestic Violence – Victims' Protection Bill

LOOKING BACK

PHILIPPINES
19 DEC 2016

Department of Labor and Employment(DOLE) Department Order (DO) No. 167-16 -- Implementing Rules and Regulations of Republic Act (RA) No. 10757 entitled "An Act Reducing the Retirement Age of Surface Mine Workers from Sixty (60) to fifty (50) years"

Mandates the payment of retirement benefits to surface mines workers who retire upon reaching 50 years of age with at least five (5) years of service

More...

PHILIPPINES
16 JAN 2017

DO No. 149 A -17 – Guidelines In Assessing and Determining Hazardous Work in the Employment of Persons Below 18 Years of Age

Prohibiting the employment of persons below 18 years of age in slaughter houses and abattoirs, among others.

More...

PHILIPPINES
2 FEB 2017

DO No. 169-17 -- Implementing Rules and Regulations of RA No. 10789, otherwise known as "The Racehorse Jockeys Retirement Act"

Providing retirement benefits to racehorse jockeys upon reaching the mandatory retirement age of fifty (50) years provided he/she has served for at least five (5) years as racehorse jockey.

More...

PHILIPPINES
2 FEB 2017

DO No. 170-17 – Implementing Rules and Regulations of RA No. 10911 entitled "Anti-Age Discrimination in Employment Act"

Prohibits, among others, publishers to print or publish any advertisement relating to employment suggesting preferences, limitations, specifications, and discrimination based on age.

More...

PHILIPPINES
6 FEB 2017

Labor Advisory (LA) No. 02-17 – Right to Self-Organization Relative to the Implementation of the K-12 Program

Recognizing the right to self-organization of all personnel in the Higher Educational Institution during the transition period to the implementation of the K-12 Program

More...

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Important: action likely required

Good to know: follow developments

Note changes: no action required

Looking Back

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CONTRIBUTED BY: ROMULO
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LOOKING BACK

SINGAPORE
9 JAN
2017

Amendments to Retirement and Re-employment Act Passed

The amendments to the Retirement and Re-employment Act were passed by Parliament on 9 January 2017. With this, with effect from 1 July 2017, the re-employment age will be raised from 65 to 67, i.e. companies will be required to offer re-employment to employees until they reach 67 if the statutory conditions are met. If companies are unable to do so, they will need to provide an Employment Assistance Payment to the employees.

In addition to raising to re-employment age, the amendments also removes the option provided to companies to cut the wages of employees who reach 60 years of age.

More...

SINGAPORE
28 FEB
2017

SMRT Trains Ltd Convicted for Workplace Safety Lapses

SMRT Trains Ltd, one of the major public transport service providers in Singapore, was fined S$400,000 on 28 February 2017 after it pleaded guilty to a charge of failing to take measures as are necessary to ensure the safety and health of his employees at work. This was the highest fine ever imposed under the Workplace Safety and Health Act, and arose out of an incident in March 2016 where 2 maintenance workers were killed after being struck by an oncoming train while they were investigating an incident on the tracks. In the press release, the courts found that there had been a long history of deviations from the approved operating procedures by staff members of SMRT Trains Ltd and more importantly, SMRT Trains Ltd had failed to ensure compliance with such procedures over a long period of time.

More...

SINGAPORE
6 MAR
2017

New Employment Initiatives for 2017

The Committee of Supply speeches for the Ministry of Manpower ("**MOM**"), which highlighted the key initiatives of the MOM in 2017, were made in Parliament on 6 March 2017. This comes at a time of global economic uncertainty and as the employment landscape in Singapore is in a state of transition. The key points to note from the speeches are that the MOM will continue to ensure that the Singaporean Core is being developed while ensuring that there remains a mix of foreign workers, the increment in minimum wage for employment of mid-skilled and low-skilled foreign workers, and the measures put in place to encourage mid-level career conversions and to assist the long term unemployed.

In addition to the above, the MOM also announced that it will soon form a Tripartite Workgroup for Freelancers given the increasing number of freelancers in Singapore. This is an area to note moving forward.

More...

SINGAPORE
15 MAR
2017

Construction Company Charged for Housing Offences

On 15 March 2017, the Ministry of Manpower ("MOM") announced that a construction company has been charged in the State Courts for failing to provide hygienic conditions in accommodation for its foreign workers and for abetting 9 other companies to house their foreign workers in the same unhygienic accommodation. If convicted, the construction company faces a fine of S$10,000 and/or up to 12 months imprisonment for each offence. More importantly, the MOM has taken to opportunity to emphasise that it is a regulatory condition that all employers must house their foreign workers in acceptable housing conditions.

More...

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Important: action likely required

Good to know: follow developments

Note changes: no action required

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Lawyers who know Asia

LOOKING BACK

SOUTH KOREA 1 JAN 2017

Implementation of Minimum Retirement Age to Companies with Less than 300 Employees

- On May 22, 2013, to better reflect the change in demographics (e.g., the aging workforce) and the social and economic circumstances in Korea, the Act on Prohibition of Age Discrimination in Employment and Elderly Employment Promotion was amended to establish a minimum retirement age of 60.
- While this minimum retirement age previously applied only to companies with 300 or more employees, as of January 1, 2017, it applies to all companies in Korea.

More...

SOUTH KOREA 1 JAN 2017

Requirement to Maintain and Return Job Applicants' Application Documents

- Pursuant to the Fair Hiring Procedure Act (which came into effect on January 1, 2015), a company is required (i) to maintain an applicant's application documents for a certain period of time and (ii) when a job applicant (who has been turned down) requests the return of his/her application documents, the company must return said documents. Failure to do so may result in the company being issued a corrective order by the Ministry of Employment and Labor ("MOEL") or an administrative fine of up to KRW 3,000,000.
- While the above requirement previously applied only to companies with 100 or more employees, as of January 1, 2017, it applies to companies with 30 or more employees.

More...

SOUTH KOREA 1 JAN 2017

Increase in the Maximum Amount of Maternity Leave Compensation

- Under the Labor Standards Act, a pregnant employee is entitled to 90 days (or 120 days, in case of multiple births during the same pregnancy) of maternity leave before or after childbirth. Furthermore, the pregnant employee is entitled to receive from the Employment Insurance Agency 90 days' ordinary wage (or 120 days' ordinary wage, in case of multiple births during the same pregnancy) if she works at a "priority company" (which generally refers to small to mid size companies meeting certain employee headcount requirements) or the equivalent of 30 days' ordinary wage (or 45 days' ordinary wage, in case of multiple births during the same pregnancy) if she does not work at a "priority company" up to the maximum limit further described below.
- Until 2016, the maximum amount for maternity leave compensation was KRW 1,350,000 per month; however, as of January 1, 2017, the maximum amount has been increased to KRW 1,500,000 per month.
- To receive the maternity leave compensation, the employee must apply for compensation after 60 days (or after one month, if she works for a "priority company") of maternity leave, but before 12 months have passed since the end of the maternity leave.

More...

SOUTH KOREA 1 JAN 2017

Increase in Minimum Wage

- The minimum wage for 2017 has increased by 7.3% (by KRW 440) to KRW 6,470 per hour.

More..

LOOKING BACK

SRI LANKA

1 MAR 2017

SC Appeal 88/2010

The Applicant-Appellant filed an application in the Labour Tribunal alleging that his services were unjustifiably and wrongfully terminated by the Respondent-Respondent. The Labour Tribunal, ordered compensation equivalent to two years salary of the Applicant-Appellant. Being aggrieved by the order of the Labour Tribunal, the Applicant-Appellant (the former employee) appealed to the High Court. The learned High Court Judge by his order, reduced the said amount to 12 months salary.

The Applicant-Appellant submitted that orders of the Labour Tribunal are based on the principle "just and equitable" and as such the learned High Court Judge had not observed the said principle when he reduced the quantum of damages ordered by the Labour Tribunal.

The main question that arose for consideration in this matter was whether the High Court in the exercise of its appellate jurisdiction has the power, in an appeal filed by the employee, to reduce compensation when there is no appeal by the employer.

The Supreme Court held that the High Court in the exercise of its appellate jurisdiction considers an appeal filed against an order or judgment of Labour Tribunal, and that it has the power to affirm, reverse, correct or modify an order or the judgment of a Labour Tribunal. Further, it was held that the High Court in the exercise of its appellate powers has the right to reduce compensation awarded by the Labour Tribunal when it considers an appeal filed by a employee or trade union although there is no appeal by his employer and that the High Court also has the power to enhance the compensation awarded by the Labour Tribunal when it considers an appeal filed by the employer although there is no appeal by the employee or the trade union.

The Supreme Court affirmed the judgment of the High Court and dismissed the appeal without costs.

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Important: action likely required

Good to know: follow developments

Note changes: no action required

Looking Back

Looking Forward

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TAIWAN

21 DEC 2016

Presidential Order to Amend Certain Provisions of the Labor Standards Act

The Presidential Order with Ref. No. Hua-Zhong-Yi-Yi-Zi 10500157731 dated December 21, 2016 announced the amendment of Articles 23, 24, 30-1, 34, 36, 37, 38, 39, 74 and 79 of the Labor Standards Act.

Main Points of the Amendment:

- When paying wages, employer must disclose the formulas used for each item of remuneration (Article 23, Paragraph 1)
- Increased wages for working on rest days, and those working hours are included into the monthly extended working hours total (Article 24)
- Work shifts should allow at least 11 hours of rest for an employee (Article 34, Paragraph 2)
- Established clear legal basis for two days of rest – employees should get 2 days of rest every 7 days, one as a day off, and the other as a rest day. (Articles 30-1 and 36)
- National holidays shall revert to be uniformly regulated by the relevant rules of the Ministry of the Interior. (Article 37)
- Increased the rights of junior employees regarding annual leaves. Several other rules, such as "annual leaves shall in principle be taken at the request of the employee", "employer shall inform employees to arrange the annual leaves when the employee meets the conditions under the law", "employer shall pay compensation for annual leaves not taken", and "employer shall clearly record in its payroll records the annual leave days taken and the amount of compensation paid for annual leave not taken, as well as regularly notify the employee of such in writing" were added, and the burden of proof will be on the employer in the event of a labor dispute on such points so as to ensure that the employee leave scheme is properly implemented (Article 38).
- To more effectively handle complaints and strengthen the protection of rights of complainant employees, an employer's decision to terminate, reduce in rank, reduce in salary or take any other unfavorable action against a complainant employee shall be void and invalid. The competent authority or inspection institution must, within 60 days of receipt of the complaint, resolve the situation and notify the complainant employee in writing. The identity of the complainant employee shall also remain strictly in confidence. (Article 74)
- Increased the cap on fines for violation of provisions relating to wages and working hours to NT$1 million. To further increase the employer's duty and obligation on such issues, the competent authority may decide to further increase the fine by one half of the maximum amount stipulated under law depending on the size of the business, the number of individuals affected or the seriousness of the violation. (Article 79)

More...

TAIWAN

30 DEC 2016

The Ministry of Labor announced that certain provisions of the Enforcement Rules of the Labor Standards Act shall no longer be effective after January 1, 2017

Due to the promulgation of the amendments to Articles 37 and 38 of the Labor Standards Act on December 21, 2016 and their implementation after January 1, 2017, the Ministry of Labor announced in its Lao-Dong-Tiao-3-Zi-1050133033 Circular dated December 30, 2016 that the current Article 23 (definition of certain national holidays), Paragraphs 2 and 3 of Article 24 (annual leaves) of the Enforcement Rules of the Labor Standards Act will no longer be in effect for conflict with the aforementioned amendments.

More...

LOOKING BACK

TAIWAN

7 FEB 2017

The Ministry of Labor announced its interpretation that if an employee agreed to work on a rest day but subsequently was unable to perform for cause, compensation for the time the employee is deemed to be on leave shall be calculated based on the increased standards for rest days

The Lao-Dong-Tiao-2-Zi-1050133150 Circular published by the Ministry of Labor on February 7, 2017 states that if an employee has agreed to work on a rest day but could not perform for the agreed amount of time for cause, then in addition to the compensation due under Article 39 of the Labor Standards Act, compensation for work hours that day shall be calculated according to Article 24 of the Labor Standards Act, and for the time deemed as on leave, compensation shall be then calculated in accordance with the increased rates for rest days and regulations of leave-taking by employees.

More...

TAIWAN

7 FEB 2017

The Ministry of Labor announced its explanation regarding how an employer shall handle occupational hazard compensation and employee pension per Article 61 of the Labor Standards Act if an employee suffered disability, injury, sickness or death as a result of an occupation hazard

In the event an employee suffers a disability, injury, sickness or death as a result of an occupational hazard, the Ministry of Labor stated in its Lao-Dong-Tiao-2-Zi-1050133076 Circular dated February 7, 2017 that under Article 61, Paragraph 2 of the Labor Standards Act, the occupational hazard compensation due will not be affected by the employee's departure; accordingly, if an employee dies after leaving his employment in the same occupational hazard event, the employer must still provide compensation, and the amount may not be offset by the pension that the employee had collected.

More...

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Important: action likely required

Good to know: follow developments

Note changes: no action required

Looking Back

Looking Forward

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Important: action likely required

Good to know: follow developments

Note changes: no action required

Looking Back

Looking Forward

CONTRIBUTED BY: Tilleke & Gibbins

LOOKING BACK

VIETNAM

14 NOV

2016

Decree 166/2016/ND-CP dated 24 December 2016 of the Government

Decree 166 provides an online method to carry out administrative procedures in the field of social insurance, in particular social, health and unemployment insurance. Under this Decree, documents for electronic social insurance comprise of: (i) Application for e-social insurance; (ii) Accounting documents in compliance with e-accounting system of Vietnam Social Insurance; (iii) Other documents, notifications of organizations, persons conducting e-social insurance transactions.

The Decree also specifies conditions which must be satisfied to be eligible to use this online administrative procedure.

This Decree takes effect as from 1 March 2017.

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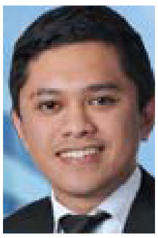

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