



GUIDE TO HR POLICIES AND LEGAL 101 FOR HR MANAGERS IN MALAYSIA

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Introduction

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Running a small business or SME in Malaysia is no easy feat. You've got to juggle a million things, from marketing and sales to customer service and accounting. And of course, the area of workforce management and human resources is one of, if the most challenging aspect of all.

It's well-understood that HR is a crucial element of any business, but it can also be one of the most challenging. With so many laws and regulations to keep track of, it can be hard to know where to start.

In fact, Malaysia reportedly has the “second most complex HR and payroll practices” in the world — right behind Belgium.

Plus, we know that you're busy running your business, so we've put together this handy guide to help you make sense of the overall picture when it comes to employment laws and HR policies in Malaysia.



How to use this guide

We'll start by giving you an overview of the key laws and regulations that you need to be aware of. Then, we'll discuss some of the most important HR policies that you should have in place. Finally, we'll provide some tips on how to ensure compliance with HR laws and policies in Malaysia, which can be made simpler using altHR's helpful digital features geared towards ideal legal compliance.



The Legal Landscape for Human Resources in Malaysia

Malaysia has a complex and ever-evolving legal landscape for human resources (HR). The main point of reference for employers is the Employment Act 1955, which applies to all employees in Malaysia. This is due to a recent amendment to the Act, which extended coverage to all employees regardless of salary earned.

However, do note that those earning above RM4,000 per month are exempted from certain provisions in the Act, including:

- Section 60(3) - Overtime rates for employees working on rest days
- Section 60A(3) - Overtime rates outside working hours
- Section 60C(2A) - Allowance for shift-based work
- Section 60D(3) - Overtime on public holidays
- Section 60D(4) - Overtime for half working days on holidays
- Section 60J - Termination, lay-off, retirement benefits

The Employment Act covers a wide range of topics, including:

- The recruitment and selection of employees
- The terms and conditions of employment, such as wages, hours of work, and leave entitlements
- The termination of employment
- The resolution of employment disputes

In addition to the Employment Act, there are a number of other laws and regulations that employers need to be aware of, such as:

- The Industrial Relations Act 1967: This law governs the relationship between employers and trade unions.
- The Social Security Act 1969: This law provides for social security benefits, such as retirement pensions and unemployment benefits.
- The Skills Development Act 2001: This law promotes skills development and training for employees.
- The Occupational Safety and Health Act 1994: This law ensures the safety and health of employees in the workplace.

Better safe than sorry...

The penalties for non-compliance with Malaysia's HR laws can be severe. Employers who violate the Employment Act can be subjected to fines or imprisonment — or both. In some cases, employers may also be required to pay compensation to employees who have been adversely affected by the violation.

For example, an employer who fails to pay an employee the minimum wage can be fined up to RM10,000. An employer who terminates an employee without just cause or excuse can be ordered to pay the employee compensation.

Also, an employer who discriminates against an employee on the basis of race, religion, gender, or other protected characteristic can be fined up to RM50,000.

It's important for employers to be aware of the legal landscape for HR in Malaysia and to take steps to ensure compliance with all applicable laws and regulations. Doing so will allow them to protect themselves from costly fines and legal action, and also create a more positive and productive work environment for their employees.

Here are some additional points to keep in mind, which we'll also get to later:

You need to keep up-to-date with changes in the law. This can be done via HR support groups, courses conducted by industry experts — or get support from an HR professional via consultancies and other solutions.

You should have clear and compliant HR policies and procedures in place.

Having a strong HR culture in your organisation can benefit your business in many ways.

The Employment Act (1955)

The Employment Act 1955 (EA) is one of the most important pieces of legislation for Malaysian businesses as it sets out the basic rights of employees, such as the right to worker protection (including sexual harassment), the right to paid leave, and the right to be protected from discrimination.

Ensuring that employees are treated fairly and have their rights protected is essential for any business that wants to be successful. When employees feel valued and respected, they are more likely to be productive and engaged in their work. They are also less likely to leave the company, which can save businesses money in terms of recruitment and training costs.

The EA 1955 is a complex law, and it can be difficult for businesses to keep up with all of the changes. However, it is important for businesses to make sure that they are compliant with the EA. By doing so, they can avoid legal problems and create a positive and productive work environment for their employees.

Here are some of the key benefits of complying with the EA:

Reduced risk of legal action.

Better employee morale and productivity.

Higher talent retention.

Enhanced corporate reputation.

At a glance, here are some of the stipulations of the EA that you should be aware of:

Employee's Right	Explanation
Paid leave	Employees are entitled to paid annual leave, sick leave, and maternity leave. The amount of leave entitlement depends on the employee's length of service, and can also be prorated should an employee have worked less than a full year within that calendar year.
Public holidays	<p>Malaysian employees are entitled to 11 gazetted public holidays, 5 of which are compulsory: National Day, Yang di-Pertuan Agong's birthday, Ruler's birthday, Labour Day, and Malaysia Day.</p> <p>The other 6 can be chosen by the employer. If a public holiday falls on a rest day, the next working day will be a substitute public holiday. Employees are also entitled to any public holiday declared under Section 8 of the Holidays Act 1951. If a public holiday falls during sick or annual leave, the employee is entitled to another day off as compensation.</p>
Protection from discrimination	Employees are protected from discrimination on the basis of race, religion, gender, age, or disability. This means that employers cannot discriminate against employees in terms of their recruitment, selection, terms of employment, or termination of employment.
Overtime pay	Employees are entitled to be paid overtime if they work more than the standard working hours. The maximum working hours are 45 hours per week.
Written employment contract	Employees are entitled to be given a written employment contract that sets out the terms of their employment. This includes the employee's job title, salary, working hours, leave entitlements, and termination procedures.
Consultation on changes to terms of employment	Employees are entitled to be consulted on any changes to their terms of employment, such as a reduction in salary or a change in working hours.
Fair dismissal	Employees can only be dismissed for a fair reason, such as misconduct or redundancy. If an employee is dismissed unfairly, they may be entitled to compensation.
Employees Provident Fund (EPF)	Employers must pay the EPF contributions for their employees. The employee's share can be deducted from their salary. The contribution rates vary depending on the employee's age, salary, and citizenship status. Payments must be made on or before the 15th of each month.

For a comprehensive run-through of all employee rights stipulated in the EA, you can [click here](#) to view the act in its entirety. You should also note that there have been significant amendments to the EA 1955 that came into effect in 2023 — read our full [breakdown here](#).

Implementing your own policies.

Now having briefly covered the bulk of legalese in the previous section, you probably now know that having clear and concise company policies is essential for running a successful business.

But crafting those policies can be a daunting task: Where do you start? What do you need to include? And how do you make sure your policies are compliant with the law?

First, know that you're not alone; many employers struggle with this. That's why we're here to help.

In this section, we'll walk you through the process of crafting company policies, including various tips and advice along the way. We'll even provide you with some sample policies that you can use as a starting point.

So whether you're a new employer or you're just looking to update your existing policies, we encourage you to read on. By the end of this section, you'll have everything you need to craft company policies that are fair, compliant, and workable.



Crafting policies 101

Crafting company policies can be a daunting task, but it is important to get it right. Here are some tips on how to go about it:

Start by understanding the law. The first step is to understand the relevant laws and regulations that apply to your business. This includes the Employment Act 1955, the Industrial Relations Act 1967, and the Human Rights Commission of Malaysia Act 1999.

Identify your business needs. Once you understand the law, you need to identify the specific policies that are needed for your business. This will depend on the size and type of your business, as well as the industry you are in.

Consult with an employment lawyer. This can help you ensure that your policies are compliant with the law and that they protect your business from legal liability and risk. Look for policy specialists, and ensure that regulatory and certification boards in your industry are complied with.

Get feedback from employees. Once you have drafted your policies, it is a good idea to get feedback from employees. This will help you ensure that the policies are fair and workable.

Review and update your policies regularly. The law is constantly changing, so it is important to review your policies regularly and make sure that they are still compliant. You should also update your policies as your business grows and changes.

Which policies to focus on first?

The specific policies that you need to focus on first will depend on your business and the industry you are in. However, some of the most important policies to consider include:

Hiring and termination policies: These policies should outline the process for hiring and termination of employees, as well as the reasons and SOPs behind such processes.

Salary and benefits policies: These policies should outline the salary and benefits that employees are entitled to, such as sick leave, vacation leave, and retirement benefits.

Working hours and overtime policies: These policies should outline the standard working hours and the rules for overtime work.

Discrimination and harassment policies: These policies should outline the company's commitment to a discrimination-free workplace and the procedures for handling complaints of discrimination or harassment.

Health and safety policies: These policies should outline the company's commitment to a safe and healthy workplace and the procedures for handling workplace accidents and injuries.



Bookmark these laws

When crafting company policies, it is important to prioritise these laws in addition to the EA 1955. This will only ensure that your own policies are well-covered. Take note of these:

Weekly Holidays Act 1950

Contracts Act 1950

Holidays Act 1951

Factories and Machinery Act 1967

Industrial Relations Act 1967

Income Tax Act 1967

Employment (Restriction) Act 1968

Employees Social Security Act 1969

Employment (Termination and Lay-off Benefits) Regulations 1980

Employees Provident Fund Act 1991

Occupational Safety and Health Act 1994

Human Resources Development Act 2001

Employment (Part-time Employees) Regulations 2010

National Wages Consultative Council Act 2011

Minimum Retirement Age Act 2012

Children and Young Persons (Employment) (Amendment) Act 2018

Minimum Wage Order 2022

Employment Insurance System (Amendment) Act 2022

Employees' Social Security (Amendment) Act 2022

Ways to smoothen the process

For a smooth-sailing legal framework, there are a number of ways to smoothen the process of crafting company policies:

Policy management systems: A policy management system can help you to store, track, and manage your company policies.

Policy templates: A comprehensive policy template can help you to get started with drafting your policies.

Legal experts: An employment lawyer can help you to ensure that your policies are compliant with the law, and will advise you on a range of relevant issues.

A digital automated HR system: Deploying an automated HR system like altHR can help you fast-track all policies and related paperwork so that everything is up to date, with digital trails in place for better transparency. Ultimately, this equates to better compliance for all members of staff.

By following these tips, you can craft company policies that are fair, compliant, and workable. This will help you to protect your business from legal liability and create a positive and productive work environment for your employees.

Never worry about compliance with altHR

Now that you've got a better understanding of the current legal landscape for human resources in Malaysia, the next step is to make sure that your business falls in line with every law and guideline without compromise.

We believe that the best place to begin is with digitalising your HR operations with an all-in-one management suite like altHR, which takes all the hassle out of compliance and paperwork processing.

Here are some of the time-saving features that you and your team will enjoy:

- Complete, automated leave processing
- Intuitive expenses and claims tracking system
- Centralised documents and paperwork for all employees
- Intuitive onboarding platform for new hires
- And more

**Looking for the easiest way to do HR in Malaysia?
Take the digital leap and speak to us by clicking here.**

