

## Finally! Protection for part-time employees in Malaysia

By **Leonard Yeoh**



After much lobbying by interested groups, the *Employment (Part-Time Employees) Regulations 2010* (the Regulations) came into effect on 1 October 2010, and so far the feedback has been fairly positive. As the process of employing foreign workers is rather tedious, many are of the view that the Regulations will drastically reduce the country's reliance and dependence on foreign workers, as employers may be more inclined to employ local part-time employees (PTEs) instead. This will reduce the necessity for employers to train new foreign workers each time their current workers are sent back to their countries of origin upon the expiry of their visas, whilst employers will also be able to save costs in the form of levies paid to employ foreign workers.

The Regulations may also be an incentive for locals, and in particular women who may not wish to work full-time, to enter the workforce (since PTEs are now protected by law), and may encourage higher institution students or retirees to work part-time as employees increasingly work remotely or on a one-off task basis. Since the government has given permission to civil servants to work after office hours, the Regulations may also benefit those who wish to obtain a second job.

Employers will also benefit when hiring employees on a part-time basis for a specific project, as it will enable them to manage their labour costs more effectively and provide greater flexibility in managing operations and manpower whilst minimising the impact on full-time employees.

It is anticipated that increased participation by locals in the workforce and the reduction of the country's reliance on foreign labour will also benefit Malaysia as it moves towards becoming a high-income and highly productive nation.

However, concerns have been raised regarding the inadequacies of the Regulations, as PTEs are still receiving less favourable protection compared to full-time employees. For instance, the Regulations do not apply to casual employees and home-working employees, nor do they contain any provisions for maternity benefits.

Therefore, it remains to be seen whether the Regulations will prove to be beneficial for the country, employers and the local workforce in the long run. Nevertheless, it is opined that the pros outweigh the cons, and that it is a step in the right direction by the government to afford more protection to the workforce whilst providing increased local manpower to employers.

### Highlights of the Regulations

The following are some of the protections and benefits accorded to part-time employees who fall within the Regulations:

- Extra hours – if a PTE is required to work beyond his normal hours of work, the employer must pay for such extra work;
- Holidays – every PTE is entitled to a paid holiday at his ordinary rate of pay on the prescribed days;
- Annual leave – a PTE is entitled to paid annual leave of a certain number of days for every 12 months of continuous service with the same employer;
- Sick leave – a PTE is entitled to a certain number of days of paid sick leave for every 12 months of continuous service with the same employer; and
- Rest day – a PTE is entitled to a rest day in each week if he works 5 days or more with total working hours of not less than 20 hours a week. If the employer requires the PTE to work on a rest day, the employer must pay the PTE not less than 2 day's wages at the ordinary rate of pay, in addition to payment for any extra hours beyond his normal hours of work.

Any employer who fails to comply with the provisions of the Regulations commits an offence and will, upon conviction, be liable to a fine not exceeding RM10,000 (approx US\$3,228). The Regulations do not prevent the employer and the PTE from agreeing to any term or condition which is more favourable to the PTE.

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