

Indonesia Part II

Insights

4.08.15



This article is the second in a series which will provide an introduction to employment law in Indonesia and will cover the basic laws applicable to terms of employment, specifically wage & hour law, medical leave, and termination of employment.

Wage and Hour

Maximum work hours may be either:

- A forty-hour work week of eight hour days over five working days; or
- A forty-hour work week of seven hour days over six working days.

Indonesia uses a “Basic Salary” system instead of the hourly wage system found in the U.S. A basic salary is the prevailing payment made to an employee based on his or her level or type of work as determined by management. The basic hourly salary (which can be understood as a wage system) is calculated by dividing the monthly portion of the salary by 173. Minimum wage varies by location and is set by the Wages Board of a province, district or city. Vacation and Holiday time accrues during the first twelve months of employment. After the first full year, the employee has the right to twelve working days holiday per year. Employers must allow their employees to take annual leave.

Employees may earn up to fourteen hours of overtime per week. Beware that additional time may not exceed three hours per-day. The rate of overtime ranges between 1.5 x basic hourly salary to 4 x basic hourly salary. If overtime is necessary during the weekend or public holidays, the employer must consider overtime accrued over the course of the work week. If one is required to work during

the weekend or holiday, the first eight hours of overtime will be earned at 2 x basic hourly salary. Subsequent hours will be at 3-4 x basic hourly salary.

Medical Leave

Employees have the right to paid sick leave according to the following rubric:

- Months 1-4: 100% basic salary;
- Months 5-9: 75% basic salary;
- Months 10-13: 50% basic salary
- Months thereafter: 25% basic salary until employment is terminated.

Termination of Employment

Generally speaking, employees may only be terminated for cause. Termination without cause is only permitted with advance approval from the Department of Manpower. Termination for cause is typically merited when an employee has violated company policy or a term of his or her contract. Even when dealing with a termination for cause, employers must follow a multi-step process in order to complete the termination. In short, an employee must have at least three documented warnings, before an employer can proceed. The parties must then attend a bipartite, or in some cases tripartite, negotiation to settle the dispute. If a settlement cannot be reached, the employer must issue a notice of termination. Notice is not required in the following situations however:

- At the end of a limited period contract;
- If the termination falls within a probationary period;
- If the employee quits, or is absent for more than five days without informing the employer;
- If the employee has committed a crime; or
- If the employee has wrongfully accused the employer of mistreatment.

Similar provisions apply to reductions in force.

Beware that Indonesian law provides an additional layer protection to certain categories of workers and employers are prohibited from terminating employees in the following situations:

- Absence due to illness for less than 12 months, with documentation from a doctor;
- As a result of differences in ideology, religion, political affiliation, race, color, group, sex, physical condition or marital status;
- Inability to carry out work due to fulfillment of his or her state duties;
- If the employee is recently married;
- If the employee is pregnant, experiences miscarriage, or is breastfeeding her child;

- If the employee forms or becomes a member of a union's management, and carries out activities on behalf of the union with the consent of the employer or based on the provisions of the employment agreement;
- If the employee has made a criminal allegation against the employer; or
- If the employee is performing a religious ritual.

If terminated, employees are typically entitled to severance pay following termination. Provisions of the Employment Law in this regard can be quite detailed and go beyond the scope of this article. In general, severance pay is calculated based on length of service starting at one month's salary if employed for less than a year and going up one month for each additional year, up to 8 months pay.

<http://www.state.gov/p/eap/ci/id/>

<http://www.indonesia.go.id/en> (no English translation available for sites off main page)

<http://www.amcham.or.id/>

<http://en.hukumonline.com/pages/tag/Lt54c091c32f187>

<http://blog.ssek.com/>

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