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Employment law in Hong Kong – an overview

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Introduction

This in-brief provides an overview of employment law in Hong Kong.

Our Hong Kong office was opened to meet a growing demand from many of our clients for coordinated employment and immigration/global mobility support across the Asia Pacific region (including in Hong Kong itself).

This publication provides general guidance only: expert advice should be sought in relation to particular circumstances.

The employment law landscape

Hong Kong is a Special Administrative Region of China and its approach to employment law reflects its common law heritage and the autonomy to develop its own legal framework under the "one country two systems" model.

The principal employment legislation is the Employment Ordinance ("EO") which sets out essential statutory rights. Outside of these statutory protections, employers and employees enjoy significant contractual freedom, resulting in a flexible and business friendly labour market.

Commencing employment

Structuring the employment relationship

A foreign entity can directly engage employees in Hong Kong and there is no need to set up a local entity in order to do so. However, if the foreign entity is to conduct business in Hong Kong, then its business must be registered for this purpose.

Types of employment

Employment contracts can be for an open term (i.e. permanent) or a fixed term. If the period of employment is not specified in the contract, it will be deemed to be a "rolling" one month contract once the employee has worked for at least 18 hours per week for a continuous period of four weeks (see "Key minimum employment rights" section below for updates to this rule).

While not unheard of, the use of agency or "dispatch" workers is not as common in Hong Kong as in certain other jurisdictions in Asia - no doubt partly due to the fact that it is relatively easy to terminate the employment of permanent employees (see the "Terminating employment" section below).

The employment contract

There is no requirement for contracts to be in writing, although in practice most are. There is also no particular language that must be used in employment contracts, and English, Chinese or both are most often used.

There is no restriction on the use of probationary periods and they are common, typically ranging from three to six months. Regardless of what the contract says, either party may terminate the contract without notice during the first month of a probationary period.

Key minimum employment rights

The principal statute regulating the employment relationship is the EO. Many benefits and protections under the EO are only available to employees who are employed under a continuous contract ("Continuous Employees"). A Continuous Employee must have been employed continuously by the same employer for at least four consecutive weeks, working at least 18 hours in each week. This '418' rule is proposed to be lowered to a 17 hour per week threshold and replaced with a '468' rule from 18th January 2026 onwards, where an employee who has worked for the same employer and accumulated a total of 68 working hours or more in a four consecutive week period will be regarded as a Continuous Employee. In practice, the 418 rule excludes a large number of part-time employees from many of the benefits and protections provided by the EO. The intention of the proposed change to a 468 rule is to extend statutory benefits to a wider pool of employees, particularly those in part-time or casual employment.

Working time

There are no specific laws on working hours. However, a Continuous Employee is entitled to at least one rest day every seven days and to statutory annual leave.

Leave

Continuous Employees with at least one year's service are entitled to paid annual leave of up to 14 days depending on their length of service. It is also common for employers to provide enhanced contractual leave above the statutory minimum.

There are currently 14 statutory holidays in Hong Kong. The Government is in the process of progressively increasing the number of statutory holidays in Hong Kong to align with general holidays until this reaches 17 statutory holidays in 2030.

Continuous Employees accrue a "sickness allowance" at the rate of two paid sickness days for each completed month of service in the first year of employment and four paid sickness days for each completed month of service in subsequent years' employment, up to a maximum number of 120 days. Save for pregnancy related check-ups or treatment, statutory sickness allowance is payable only for sickness-related absences of four or more consecutive days.

Female employees are entitled to 14 weeks' paid maternity leave and male employees are entitled to five days' paid paternity leave, if certain eligibility criteria are met – including length of service and being a Continuous Employee.

Pay and social security

Hong Kong has had a statutory minimum wage since 2011. The minimum wage is set at $42.1 per hour as of 1st May 2025. Payment of Hong Kong tax is the employee's responsibility and employers are not generally required to withhold tax through the payroll system.

The default statutory pension fund scheme is called the Mandatory Provident Fund ("MPF"). An employer is generally required to enrol an employee into a MPF scheme within the first 60 days of employment. Both the employer and employee must contribute a minimum of 5% of the employee's pay into the fund, subject to a statutory cap of HK$1,500. Employers cannot offset statutory severance payments or long-service payments against the accrued value of an employer's contributions made after 1 May 2025.

Hong Kong employees are not entitled to a bonus unless it is expressly provided for in the employment contract. Some employers pay an automatic bonus of one month's salary at Chinese New Year, although this is increasingly being replaced by performance-related bonuses.

Terminating employment

Terminating employment is relatively straightforward in Hong Kong. An employer is not required to give a reason for termination, and the contract can be terminated at any time by the employer giving the notice specified in the contract or by making a payment in lieu of notice. There is no statutory procedure for an employer to follow before terminating employment.

Statutory minimum notice varies depending on the term of the contract, from seven days to one month. The employee can also terminate the contract by making a payment in lieu of notice.

An employer may dismiss an employee without notice in certain limited circumstances, including gross misconduct, although the threshold to justify a summary dismissal is very high.

Despite an employer having considerable freedom in terminating employment, there are some limited protections for employees.

The EO allows a Continuous Employee with at least two years' service to make a claim for remedies against an employer for "unreasonable dismissal" if the employer dismisses the employee to evade liability imposed on the employer by the EO. To defend this claim, the employer must produce a valid reason for the dismissal. These include: the conduct of the employee; the capability or qualifications of the employee for performing the work of the kind he/she was employed by the employer to do; redundancy; or genuine operational requirements. So long as the employer can show such a reason, this should be sufficient to defeat the claim - there is no requirement to show that the termination was reasonable or fair in the circumstances.

Certain categories of employee are also specifically protected from dismissal - including employees who are pregnant and employees who are in receipt of the sickness allowance.

The number of dismissal claims is low by European standards. This is partly because it is relatively easy for employers to successfully defend such claims (except where termination is for a prohibited ground such as pregnancy) and partly because the potential remedies are limited. The remedy for unreasonable dismissal is limited to an employee's unpaid contractual and statutory entitlements.

Statutory severance is payable under the EO to a Continuous Employee with at least two years' service who is dismissed by reason of redundancy or is laid off. The amount is calculated using a statutory formula based on the employee's monthly wages (which is subject to a statutory cap) and period of continuous employment. Long service payments are also payable to Continuous Employees if certain criteria are met, including a minimum of five years' service.

Discrimination

Discrimination or harassment on the grounds of sex, pregnancy, breastfeeding, marital status, disability, family status and race are prohibited. There have been a handful of discrimination claims coming through the courts arising from termination of employment. However, the numbers are very low compared to jurisdictions in North America and Europe.

Resolving disputes

The labour tribunal has exclusive jurisdiction on certain labour issues, including disputes relating to employment contracts and claims about breaches of the EO. Parties are not entitled to legal representation in the tribunal. The government and tribunal encourage parties to resolve disputes through amicable discussions and conciliation. However, conciliation is an optional procedure and not a pre-condition for proceeding to a tribunal hearing.

Protecting the business

It is common for contracts to include non-competition, non-solicitation and non-poaching restrictions. Such a restriction will be enforceable if it protects the employer's legitimate business interests and goes no further than is reasonably necessary to protect that interest. Depending on the job position, typically, non-competition restrictions of anywhere between three and six months can be enforceable, although courts carefully scrutinise such restrictions. For example, in some cases, even a restriction covering the Central district of Hong Kong has been held to be unreasonably wide.

Employee representation

Employees are free to join unions but union representation is very low. Hong Kong enjoys relatively harmonious industrial relations.

Business transfers

There is no automatic transfer of employment in business or asset sale situations. The buyer is not obliged to make offers of employment to the seller's employees. However, in case such offers of employment are made, these will generally include keeping continuity of service from the seller, and employment on terms which are the same or no less favourable than those which previously existed between the employee and the seller.

Data protection

Employers must comply with the general principles contained in the Personal Data (Privacy) Ordinance ("PDPO"). The PDPO governs the collection, use and handing of personal data of employees. Codes of practice published by the Privacy Commissioner provide practical guidance in respect of the PDPO.

For further information on this subject please contact:

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