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Ius Laboris and Lewis Silkin APAC Employment Law Conference 2025 - The Changing Face of Employment Law

The year 2025 has been marked by geopolitical, economic, and technological shifts, fundamentally reshaping the global employment landscape. Amidst persistent uncertainty and rapid advances in artificial intelligence, traditional notions of work and employment status are being challenged. Against this complex backdrop, the 2025 Ius Laboris and Lewis Silkin APAC Employment Law Conference convened to explore how demographic shifts, technological innovation, and evolving workforce expectations are transforming legal frameworks across the Asia-Pacific region. A key theme resonated throughout the discussions: despite the rapid pace of change and technology's pervasive influence, the future of work remains intrinsically human, rooted in values, relationships, and trust. This round-up paper summarises the key insights and developments presented at the conference, offering a comprehensive overview of the region's evolving employment law trends over the past 12 months.

APAC employment law trends and regional updates

The region is navigating a “poly-crisis” of trade tensions, dramatic demographic pressures, technological disruption and evolving workforce expectations – all prompting significant legal reforms aimed at workforce sustainability, inclusivity, and adaptability. Across jurisdictions, governments are recalibrating employment frameworks to address aging populations, skills gaps, and the rise of flexible work, while tightening compliance in areas such as equality, transparency, and worker protections.

Demographics and Workforce Participation

Hong Kong projects that by 2038, one in three residents will be over 65, prompting government initiatives to attract overseas talent, expand immigration pathways, and encourage older workers to rejoin the workforce. **Mainland China** faces similar pressures, with 400 million people expected to be over 60 by 2028. In response, China is gradually raising the statutory retirement age and tightening pension eligibility, while also introducing family subsidies to boost birth rates. **South Korea**, now a “super-aged” society (a concept developed by the United Nations as the proportion of people over 65 years old account for 20% of its population), is considering raising the retirement age to 65 and has implemented generous family and childcare benefits, though birth rates remain among the world’s lowest. **Australia’s** focus is on attracting workers to the care sector and addressing gender pay disparities, as the country transitions away from traditional manufacturing.

Employment Status, Contracts and Working Time

Hong Kong has expanded the “418 rule” for continuous employment, while **China** is tightening interpretations of fixed-term contract rules, signalling that employers may only have one renewal before an open-term contract becomes mandatory. Courts have also reinforced overtime compliance, ruling that mandatory training outside normal hours counts as paid work. New judicial interpretations limit non-compete clauses to employees with access to trade secrets and clarify exceptions to double-wage penalties for unsigned contracts. In **Australia**, reforms under the “secure jobs, secure pay” agenda continue to reshape engagement models, introducing limits on rolling fixed-term contracts, new protections for gig workers, and a casual conversion pathway for small businesses.

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Equality, Governance and Compliance

Hong Kong has abolished the MPF offset for statutory severance and long service payments, and introduced new diversity requirements for listed companies. **Korea's** Yellow Envelope Act, effective March 2026, broadens union rights and expands the definition of "employer", increasing collective bargaining exposure for companies using contractors. Elsewhere, **Japan** has extended gender pay gap reporting to smaller employers and strengthened whistleblower protections, while **Indonesia** has reinforced anti-discrimination rules in recruitment. **Taiwan** issued guidance on disability accommodations, and **Myanmar** is preparing consolidated labour law reforms.

Cross-cutting trends

Overall, the region is converging on several key themes: strengthening protections for non-standard and vulnerable workers, increasing pay transparency, expanding social security, and modernising labour codes to align with international standards. Regulatory scrutiny of AI and data in HR, as well as a focus on diversity, inclusion, and flexible work, are also on the rise.

> *"The law evolves in response to societal shifts, demographic shifts, economic pressures, technological advancements, and—perhaps most importantly—the lived experiences of workers. So when we talk about legal developments, we're really talking about how the law is trying to keep pace with the changing dimensions of daily life."*
>
> *Catherine Leung*

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Restructuring in APAC - trends, challenges and best practices

Across the Asia-Pacific region, restructuring is increasingly seen as a strategic response to evolving market conditions, not merely a reaction to financial distress. While legal frameworks vary, a shared emphasis on workforce management and adaptability is evident.

In **Singapore**, restructuring is governed and guided by guidelines laid down by the Tripartite Partners (comprising of the Ministry of Manpower, National Trades Union Congress, and Singapore National Employers Federation). Employers should comply with the guidelines which provide best practices on managing excess manpower, responsible retrenchment, notification and selection criteria, support for affected employees and recommended ranges for payment of severance in retrenchment scenarios. A failure to comply with the guidelines is not, by itself, unlawful, but the authorities have broad administrative powers that may affect businesses (for example, over work pass privileges). The process is relatively straightforward, with a focus on procedural fairness and documentation. Singapore's approach allows for flexibility while maintaining legal certainty, making it one of the more navigable jurisdictions for workforce reorganisation.

Hong Kong shares similar characteristics, with statutory severance and contractual payments forming the core of redundancy obligations. The recent phasing out of MPF offsetting adds complexity, but the jurisdiction remains employer-friendly. A key trend is the shift to online business models, prompting employers to consider role reallocations rather than outright redundancies. Termination costs are increasingly being repurposed as investment costs to retrain and redeploy employees.

In **mainland China**, restructuring is more nuanced. Redundancy is not a legal concept, and employers must rely on negotiated exits. Compensation packages are central, with mandatory severance based on tenure and additional payments often required. Social media has amplified employee awareness, making communication strategies critical. Alongside economic downturns, new industries in China are emerging, particularly those driven by AI and high-tech innovation. This creates new employment opportunities, balancing out the job losses caused by restructuring.

India presents a hybrid model. Redundancy is legally recognised, but the classification of "workmen" under the Industrial Disputes Act adds complexity. A standout trend is acqui-hiring, where foreign companies absorb vendor workforces to access intellectual capital. This shift highlights the value of human skills and the importance of smooth employee integration.

Australia remains the most regulated, with robust statutory protections and a litigious environment. Recent legal developments have expanded redeployment obligations to include contractors. Despite these challenges, restructuring is driving productivity gains, particularly in banking and tech sectors.

> Across all jurisdictions, the human element is paramount. As Desmond Lee noted, *"Out of the ashes rises the phoenix"*—a reminder that restructuring, when done right, can be a catalyst for renewal.

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War on talent – Navigating and mitigating the legal risks of high-profile departures and team moves

Unexpected senior departures can send shockwaves through any organisation, especially when multiple leaders resign simultaneously. The immediate challenge is to manage the emotional response—panic, anger, and a sense of betrayal—while acting decisively to protect business continuity.

The first priority is rapid information gathering: Are the exits coordinated? Is confidential data at risk? Are teams being poached? Legal frameworks vary significantly across jurisdictions. In mainland China, notice periods are capped at 30 days, while in Hong Kong and Singapore employees can buy out their notice—often a red flag that a competitor is involved. Non-compete clauses also differ: up to two years in China (with compensation), but typically three to four months in Hong Kong and Singapore, subject to reasonableness tests.

Practical steps include placing employees on garden leave, cutting off access to sensitive systems, and considering both “carrots” (promotions, pay adjustments) and “sticks” (legal undertakings) to retain talent or mitigate risk. While litigation is an option, many disputes are resolved through negotiation and enforceable commitments, avoiding costly multi-jurisdictional battles.

The key takeaway? Preparation matters. Well-drafted contracts, tailored restrictive covenants, robust IT monitoring, and succession planning can turn a potential crisis into a controlled transition. Acting quickly, communicating transparently, and maintaining professionalism not only protects the business but also preserves reputation in a competitive talent market.

> *“…the need to depart in a graceful manner (is) also a commercial imperative…”*
>
> Russell Brimelow

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Classification of workers in the gig economy

The classification of gig workers continues to challenge legal systems across jurisdictions, with outcomes varying even under similar factual circumstances. In Hong Kong, courts have upheld the contractor status of delivery riders, emphasising freedom over work schedules, delegation rights, and the absence of employment contracts. Meanwhile, New Zealand's courts reached the opposite conclusion for Uber drivers, citing exclusivity and lack of bargaining power despite contractual language suggesting independence.

Australia has introduced a new category – "employee-like workers" – to bridge the gap between traditional employment and gig work, granting access to minimum standards and protections such as unfair deactivation claims. Japan, while not a common law jurisdiction, has taken steps to protect freelancers through the Freelance Protection Act and expanded access to workers' compensation insurance.

Improper classification could result in companies being liable for statutory benefits and compensation Close attention should be paid to:

- How the independent contractor role is advertised
- How the Consultancy / Contractor Agreement differs from the Employment Contract
- How the contractor will perform their work (should be with a high degree of freedom with the power of substitution)
- How they will be paid (invoices should be issued)
- How the relationship between the company and the contractor will be terminated

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> *"In Australia, under one of our Fair Work Commission decisions, one of the commissioners pulled out the Duck Test. If it looks like a duck and it quacks like a duck, we'll call it a duck."*
>
> Katie Sweatman

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Establishing effective AI governance frameworks and deployment strategies in the workplace

As automation and AI reshape industries, the need for clear, future-proof legislation grows. As AI tools become increasingly embedded in workplace operations, organisations face a complex and fragmented regulatory landscape. From the EU AI Act to Hong Kong's PDPO and China's filing requirements, the challenge lies in navigating overlapping obligations while maintaining operational efficiency.

A pragmatic approach is to adopt a high-watermark compliance model—anchored in the most stringent applicable regime—and build a governance framework that aligns with shared global principles: transparency, explainability, bias mitigation, and human oversight. This is particularly critical in high-risk areas such as recruitment, performance management, and redundancy decisions, where AI-driven tools can significantly impact individuals' careers.

Common risks include data breaches, misuse of personal data, and algorithmic bias—especially when historical data is used to train models. Mitigating these risks requires robust internal policies, clear vendor due diligence, and ongoing

monitoring. Shadow AI—unauthorised use of AI tools by employees—also poses a growing threat, underscoring the need for strong internal controls and employee training.

Ultimately, effective AI governance is not just about legal compliance. It's about building trust, ensuring fairness, and protecting both organisational reputation and employee rights in an increasingly automated world.

> *"AI is going to change the world. It is going to make us much more efficient. It's going to lead to better decision making… but the risk of things just being wrong or bad is just as damaging to your company, your employee experience, and your reputation."*
>
> Tarun Tawakley

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