

职场必备法律知识

Essential legal knowledge
for the workplace

CS

职场必备法律知识

**Jurisdiction and Powers of
the Courts – Labour Courts**

法院的管辖权和权力 – 劳工法庭



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CCS Insights


Jurisdiction and Powers of the Courts –
Labour Courts

法院的管辖权和权力 – 劳工法庭

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Malaysian Labour Law and Dispute Resolution System

CS 职场必备法律知识:



Jurisdiction and Powers of the Courts



- There are two separate bodies responsible for resolving and adjudicating labour issues under Malaysia's labour legislation.
- 1) One of these is the "**Labour Court**," which deals mainly with disputes under the Employment Act 1955 (EA) concerning the terms and conditions between employees and their employers.
 - 2) The other is the **Industrial Court** (IC), established under the Industrial Relations Act, which is an arbitration body that decides on disputes between trade unions and employers, including disputes between members represented by trade unions.
- The IC also has jurisdiction over dismissal disputes brought by individual employees but can only exercise its rights if the employee concerned is seeking reinstatement.

Malaysian Labour Law and Dispute Resolution System



Labour Courts



- The Director-General of Labour in the Ministry will handle claims relating to the Employment Act and certain other disputes arising from the employment contracts.
- As previously stated, except for manual workers, the EA is only applicable to employees earning less than **RM 2,000 per month** in most cases.



Malaysian Labour Law and Dispute Resolution System



Labour Courts



- Complaints filed under the EA can be classified as follows:
 - a) Decision of the DGL (Labour Court) that may be appealed to the High court for example Disagreements over wages, complaints against an employer's decision (dismissal or punishment) on an employee's misconduct after due inquiry, claims for indemnity for termination without notice, and sexual harassment

It is important to note that Section XVA of the Employment Act 1955, which strictly prohibits sexual harassment in the workplace, applies to all employees, regardless of their salary.



Malaysian Labour Law and Dispute Resolution System

Labour Courts



- Complaints filed under the EA can be classified as follows:
 - b) DGL decisions that are appealable to the Minister, with the option of review in the High Court disregarding ouster clauses, e.g., decisions on the approval of amenities, the approval of night work for women, the approval of additional hours of work, and the approval of overtime over the limit.
 - c) DGL decisions that lack an express appeal provision that is only subject to review by the High Court, e.g., payment other than by bank, those relating to work in an agricultural business, work on a rest day, and work in excess of the maximum number of hours permissible



Malaysian Labour Law and Dispute Resolution System

法院的管辖权和权力



- 在马来西亚的劳动法规下，有两个独立机构负责解决和裁决劳资问题。

1) 其中一个“劳工法庭”，它主要负责处理在《1955年劳工法令》下，涉及雇员和其雇主之间的条款的纠纷。

2) 另一个是在《1967年劳资关系法令》下设立的工业法庭 (IC)，实际上它就是一个为工会与雇主之间的纠纷作出裁决的仲裁机构，这也包括工会所代表的成员的纠纷。

同时，IC 对雇员个人提出的解雇纠纷也有管辖权，但仅在有关雇员是要求复职的情况下才能行使其权利。

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Malaysian Labour Law and Dispute Resolution System

劳工法庭



- 人力资源部的劳工总监将处理与《1955年劳工法令》有关的索赔以及由就业合同引起的其他纠纷。
- 如之前所述，除体力劳动者外，《1955年劳工法令》在大多数情况下只适用于月收入低于2,000令吉的雇员。

EA 的覆盖范围

< RM2,000

体力劳动者

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Malaysian Labour Law and Dispute Resolution System

劳工法庭



- 在《1955年劳工法令》下，提出的投诉可分为以下几类:-

- 劳工法庭所作出的决定，是可向高等法院作出上诉。

例如 关于工资的分歧、对雇主在适当调查后对雇员的不当行为作出的决定(解雇或处罚)的投诉、对未给予通知的解雇的赔偿要求，以及性骚扰

需要注意的是，《1955年劳工法令》第XVA条严禁职场性骚扰的条款，适用于所有雇员，无论其工资多少。



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Malaysian Labour Law and Dispute Resolution System

劳工法庭



- 根据《1955年劳工法令》提出的投诉可分为以下几类:-

- 劳工法庭所作出的决定，可向部长上诉或不考虑“剥夺条款”(ouster clause, 即剥夺或限制任何人对当局采取法律诉讼的条款)向高等法院提出司法审查。

例如，关于便利设施批准、妇女夜间工作批准、额外工作时间和超时工作批准的决定。

- 劳工法庭所作出的决定，缺乏明确的上诉条款，只能由高等法院进行司法审查。例如，银行以外的薪水支付方式、与农业工作、休息日工作和超过允许的最高时等工作有关的决定。



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