

职场必备法律知识
Essential Legal Knowledge for the Workplace



Sar-Alam Indah Sdn Bhd v. Chua Peng Hee [2010]
High Court Sabah & Sarawak.



Essential legal knowledge for the workplace

214/2022

CCS Insights

Sar-Alam Indah Sdn Bhd v. Chua Peng Hee [2010]
High Court Sabah & Sarawak.

Feel the CCS & Co Difference



pngss.com

Sar-Alam Indah Sdn Bhd v. Chua Peng Hee [2010] High Court Sabah & Sarawak.



- Specifically, in this case, an employee alleged that he had been forced to resign after being assaulted at the direction of his boss.
- A claim for 2 months' salary in lieu of notice and termination compensation was filed with the Labor Department. He was successful.
- Initially, the employer argued that the Sarawak Labour Department lacked jurisdiction over the issue because it was brought under Section 8A of the Sarawak Labour Ordinance, which is the same as Section 69 of the Employment Act.



Essential legal knowledge for the workplace

Sar-Alam Indah Sdn Bhd v. Chua Peng Hee [2010] High Court Sabah & Sarawak.



- The High Court stated that the position has been clear obvious since the 1989 amendments to the Employment Act and the 2005 amendments to the Sarawak Labour Ordinance were passed.
- The relevant section of the Ordinance reads:
 - In addition to the powers conferred by subsections (1) and (2), the Director may inquire into and confirm or set aside any decision made by an employer to dismiss without notice, or downgrade or impose any other lesser punishment made by an employer under subsection (1) of section 14 and the Director may make such consequential orders as may be necessary to give effect to his decision.



Essential legal knowledge for the workplace

Sar-Alam Indah Sdn Bhd v. Chua Peng Hee [2010] High Court Sabah & Sarawak.



- The High Court concluded that the jurisdictions of the Labour Court, the Industrial Court, and the civil courts are different and that employees have the right to choose which remedy they choose from among those available to them.
- A petition for reinstatement is filed under Section 20 of the Industrial Relations Act, while a complaint under Section 8A of the Sarawak Labour Ordinance is filed if an employee wants remuneration in lieu of notice (or Section 69 of the Employment Act).
- Furthermore, the Court determined that the term "dismissal without notice" is broad enough to encompass claims of Constructive Dismissal and Forced Resignation.



Essential legal knowledge for the workplace

Sar-Alam Indah Sdn Bhd v. Chua Peng Hee [2010] High Court Sabah & Sarawak.



- 具体而言，在本案中，一名雇员声称他在被殴打后，在老板的指示下被迫辞职。
- 他向劳工部提出了2个月的替代通知的工资 [Wages in Lieu of Notice] 和解雇补偿的要求。他获得了成功。
- 起初，雇主辩称砂拉越劳工部对该问题没有管辖权，因为该问题是根据砂拉越劳工条例第8A条提出的，该条与1955年劳工法令第69条相同。

Essential legal knowledge for the workplace

Sar-Alam Indah Sdn Bhd v. Chua Peng Hee [2010] High Court Sabah & Sarawak.



- 高等法院指出，1955年劳工法令及《砂拉越劳工条例》自1989年和2005年修正案通过后，这一立场已经非常明显。
- 该条例的相关章节内容如下：
 - 除了第(1)和(2)条文所赋予的权力外，总监可以调查并确认或搁置雇主根据第14条第(1)条文作出的任何决定（即：不通知就解雇，或降级或施加任何其他较轻的惩罚），同时总监可作出必要的相应命令，以执行他的决定。

Essential legal knowledge for the workplace

Sar-Alam Indah Sdn Bhd v. Chua Peng Hee [2010] High Court Sabah & Sarawak.



- 高等法院的结论是，劳工法庭、工业法庭和民事法庭的管辖权是不同的，雇员有权选择任何一种他们所倾向的补偿措施。
- 复职申请是根据《1967年劳资关系法令》第20条文所提出的，而如果雇员希望得到替代通知的工资 [Wages in Lieu of Notice] 的话，就可以根据《砂拉越动条例》第8A条提出申诉 [等同1955年劳工法令第69条]。
- 此外，法院裁定，“无通知解雇”一词的范围很广，足以包括推定解雇 [Constructive Dismissal] 和强迫辞职 [Forced Resignation] 的索赔。



Essential legal knowledge for the workplace

For further consultation, please contact:

Chin Chee Seng
Partner
+6012 365 4331
cschin@ccs-co.com

Wong Woei Teng
Audit Partner
+6017 237 8233
woeiteng@ccs-co.com

Jared Low
Assurance Director
+6018 763 4813
jared@ccs-co.com

CCS & Co

© 2022 CCS. All rights reserved. Not for further distribution without the permission of CCS & Co. "CCS" refers to the network of member firms of CCS & Co. The information contained in the slides represents the views of CCS and does not constitute the provision of professional advice of any kind. The information contained in the slides is based on our interpretation of existing legislation as at the published date. While CCS makes reasonable efforts to provide information which we believe to be reliable, we make no representations or warranties that the information provided is complete, accurate, up to date or non-misleading. The information provided herein should not be used as a substitute for consultation with professional advisers. Before making any decision or taking any action, you should consult a professional adviser who has been provided with all the pertinent facts relevant to your particular situation. No responsibility for loss occasioned to any person action or refraining from action as a result from using the information in the slides can be accepted by CCS.