

LABOUR ORDINANCE OVERHAUL IN EAST MALAYSIA: BRIDGING LEGAL GAPS WITH PENINSULAR STANDARDS

19 May 2025



The long-awaited reforms to the Sabah Labour Ordinance and the Sarawak Labour Ordinance introduced under the Labour Ordinance of Sabah (Amendment) Act 2025 and the Labour Ordinance of Sarawak (Amendment) Act 2025 respectively, came into force on 1 May 2025, with the exception of Part IVA of both Ordinances, which specifically addresses the minimum standards for workers' housing, accommodation and facilities. The amendments now largely standardise labour laws in Sarawak and Sabah with the Employment Act 1955 ("EA"), as last amended on 1 January 2023, which applies in Peninsular Malaysia, ensuring equal rights and welfare for employees nationwide.

This article discusses some of the salient changes made to the Ordinances under the Amendment Acts.

1. Expansion of the Ordinances' Coverage

Prior to the amendments, the Schedule of the Ordinances had limited the scope of application of the respective Ordinances to the following categories of employees:

- employees who earn RM2,500 and below; or
- regardless of salary earned, employees who are engaged in manual labour, supervision of manual labour, in the operation of mechanically propelled vehicles, in certain capacities onboard a vessel registered in Malaysia and as domestic servants ("Covered Employees").

This is similar to the EA before it was amended in 2023.

In line with the amendments to the EA, the entire Schedule of both Ordinances has been substituted with the First Schedule, which now expands the application of the Ordinances to all employees, i.e. any person who has entered into a contract of service.

Similar to the EA, certain sections of the Ordinances ("Excluded Sections") will not apply to employees whose wages exceed RM4,000 a month unless these employees fall within the ambit of Covered Employees. The Excluded Sections relate to working on a rest day, overtime payments, statutory entitlement to shift allowances, working on a public holiday and statutory entitlement to termination and lay-off benefits.

2. Pregnancy and Maternity

The Ordinances also introduce salient changes to maternity protection, in line with the EA as follows:

- Increase in the paid maternity allowance from 60 days to 98 days; and
- Restriction on termination of pregnant female employee except on the grounds of: (a) wilful breach of a condition of the contract of service; (b) misconduct; or (c) closure of the employer's business; and
- Reduction in confinement period from 28 weeks to 22 weeks.

3. Paternity Leave

Under the amendments to the Ordinances, a married male employee in the East Malaysia is also entitled to seven consecutive days of paid paternity leave for each confinement, up to five confinements (irrespective of the number of spouses).



4. Working Hours

Under the amendments to the Ordinances, a married male employee in the East Malaysia is also entitled to seven consecutive days of paid paternity leave for each confinement, up to five confinements (irrespective of the number of spouses).

5. Sick Leave and Hospitalization Leave

Pursuant to the amendments to the Ordinances, employees will now enjoy separate non-hospitalisation and hospitalisation sick leave. East Malaysian employees are now entitled to 14 to 22 days of paid sick leave (depending on length of service) if hospitalisation is not necessary and an additional and separate 60 days of sick leave in a calendar year if hospitalisation is necessary.

6. Calculation of Wages for Incomplete Month's Work

Identical to the EA, wages for an employee who works for less than a whole month will be calculated as follows:

Monthly wages		Number of days
-----	X	eligible in the wage
Number of days of		period
the particular period		

7. Flexible Working Arrangement

East Malaysian employees may now also apply in writing to employers for a flexible working arrangement to vary his hours, days or place of work. The employer is required to inform the employee in writing of his approval or refusal of the application within 60 days from its receipt of the application. An employer who refuses the application is required to state the ground of such refusal. There is, however, no provision to challenge the employer's refusal or the grounds on which the decision is made. The position under the Ordinances is now identical to that under the EA.

8. Well-being of Employees

Sections in relation to workplace discrimination complaints, sexual harassment complaints and forced labour have been introduced into the Ordinances, which are identical to the EA.

9. Public Holidays

The Amendment Acts have respectively increased the number of gazetted public holidays ordinarily specified the Ordinances as follows:

<p>Labour Ordinance of Sabah (Amendment) Act 2025</p>	<ul style="list-style-type: none"> • The number of gazetted public holidays has been increased from 14 to 15 days. • The amendment now includes “Malaysia Day” as a mandatory public holiday, increasing the total number of mandatory public holidays from four to five. • The Workers’ Day is substituted with “Labour Day”, and remains as one of the five mandatory public holidays.
<p>Labour Ordinance of Sarawak (Amendment) Act 2025</p>	<ul style="list-style-type: none"> • The number of gazetted public holidays has been increased from 16 to 18 days. • The amendment includes “Malaysia Day” and “Sarawak Independence Day” as part of the mandatory public holidays, increasing the total of mandatory public holidays from four to six. • The Workers’ Day is substituted with “Workers’ Celebration Day”; it remains one of the six mandatory public holidays.

10. Limitation of Actions

The Sabah Labour Ordinance now has a new provision which imposes a six-year limitation period for certain actions to be referred to the Director of Labour.

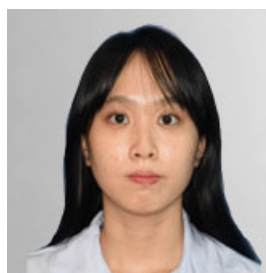
Commentary

The standardisation of the Sabah and Sarawak Labour Ordinances marks a significant milestone towards ensuring that all, employees throughout Malaysia enjoy equal rights and welfare protection in employment. Reducing discrepancies in minimum employment terms and conditions promote fairer industrial practices and greater employers’ accountability in the country.

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