

# Malaysia HR & Employment Law:

Keeping HR Leaders Updated on the Changes and Challenges on Malaysia Employment Law



## Faculty Director



### Lim Heng Seng

- Partner and Head of Employment Practice Group in Lee Hishammuddin Allen & Gledhill
- Leading Labour Lawyer in Malaysia by business and investment magazine *Euromoney*
- Listed as top individual (Band 1) in Industrial Relations by *Chambers Asia: Asia's Leading Lawyers for Business* for 5 consecutive years since 2009
- Served in various capacities in the Malaysian Judicial and Legal service from 1976 until 2001 which include head of arbitration, deputy head of civil litigation with the Attorney General's Chambers, also Chairman of both the Industrial Court of Malaysia and the Social Security Appellate Board

## Faculty Leaders



### Trevor George De Silva

Partner  
*Trevor George Partnership*

Recognized by The Asia Pacific Legal 500 and Chambers Asia Pacific as Malaysia's leading lawyer in Employment and Industrial Relations



### Jacinta Johnson

Partner  
*Zul Rafique & Partners*

Recognized as Principal Lawyer in Malaysia on termination and dismissal strategy, disciplinary process, collective bargaining, statutory benefits, and other related employment agreements

# Malaysia HR & Employment Law

## FACULTY DIRECTOR



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Lim Heng Seng currently heads the Employment Practice Group at the firm. He graduated with a Bachelor of Laws (Hons) from Universiti Malaya in 1976. He obtained a Master of Laws from the University of London (London School of Economics and Political Science) in 1987. He was admitted to the Malaysian Bar as an advocate and solicitor of the High Court of Malaya in 1988.

He served in various capacities in the Malaysian Judicial and Legal Service from 1976 until 2001 which include head of arbitration (1990-1992) and deputy head of civil litigation with the Attorney General's Chambers (February 1992-1993). He has also served as chairman of both the Industrial Court of Malaysia (1994-2003) and the Social Security (Socso) Appellate Board (1997-2003).

Heng Seng is a member of the Editorial Advisory Board for the *Industrial Law Reports* published by the Malaysian Current Law Journal. He is the advisory editor on *Malaysian Court Forms* published by the Malayan Law Journal, and the author of *Assessment of Damages in Personal Injury and Fatal Accident Claims*, a prescribed textbook for the Certificate in Legal Practice examination conducted by the Legal Profession Qualifying Board.

In the 2009 edition of *Chambers Asia: Asia's Leading Lawyers for Business*, Heng Seng was listed as a leading individual [Band 1] in Industrial Relations and described as possessing the ability to "strike a delicate but sensible balance between the law and the realities of the corporate world".

In 2010, 2011 and 2012, Heng Seng again did Lee Hishammuddin Allen & Gledhill proud by winning this recognition from *Chambers Asia* for the second, third and fourth time. Lim Heng Seng is the heartbeat of the practice. One client enthused: "His advice is always legally sound while also practical. He is willing to work together with the client to explore different options and has the courage to venture into new or untested areas."

Heng Seng has also been recognised as one of the "leading labour lawyers" in Malaysia by business and investment magazine *Euromoney*.

# Malaysia HR & Employment Law

## FACULTY DIRECTORS



### **Trevor George De Silva**

*Partner*

*Trevor George Partnership*

Trevor George De Silva chambered, and began practice in 1995, in a large law firm in Kuala Lumpur where he did solely civil and commercial litigation. Additionally, he then ventured into the practice of industrial and employment law.

His present mainstay in TGP is still Civil & Commercial litigation, with Corporate and Probate litigation following close at its heels. His practice (which includes appearances both as Counsel and solicitor) involves both interlocutory applications and the conduct of trials (both in the civil courts as well as in arbitrations). These frequently culminate in arguing motions, and appeals, in the appellate courts be it the court of Appeal or Federal Court

Mainstream employment and industrial disputes still pique his interest and sees him handling matters in the Industrial Court, Judicial Review applications in the High Court, and also appeals to the appellate courts.

**Trevor has been recognized by The Asia Pacific Legal 500 (2004/2005) for Corporate Litigation and Industrial law, and has since been consistently ranked by Chambers Asia Pacific (2009/2010, 2010/2011 and 2011/2012 and 2013) in the area of Employment & Industrial Relations. Chambers Asia Pacific Guide 2013 describes Trevor as “a well-respected litigator, best known for his appellate representation.** Employment and industrial disputes continue to form a large part of his litigation portfolio”

He frequently delivers conference papers, and conducts seminars in contract law, as well as employment law and related areas, both in public forums as well as for the firm’s clients. A firm believer that the legal profession must aspire to higher standards, and always be beyond reproach, he presently sits in the Legal Profession Committee of the Bar Council and is in his third term as a member of the Disciplinary Committee.



### **Jacinta Johnson**

*Partner*

*Zul Rafique & Partners*

Jacinta Johnson is a partner in the Industrial Relations practice group. She graduated with an LLB (Hons) degree from the University of London and was admitted as an Advocate & Solicitor of the High Court of Malaya in 2001. Jacinta regularly appears in the Industrial Court to handle disputes relating to dismissal, non-compliances and other trade disputes including collective bargaining and other employment related issues. She regularly advises clients on matters concerning the disciplinary process, which includes drafting of charges of misconduct, management of poor performers, reorganization and/or retrenchment, transfer of employees, voluntary separation schemes (VSS), collective bargaining, union recognition, statutory benefits, employees’ handbook and policies, contracts of employment and other related agreements.

Jacinta also advises on corporate restructuring, mergers and acquisitions matters affecting the employees / trade unions’ rights and has conducted Industrial Relations due diligence. Her initial experience in representing employees and trade unions has enabled her to effectively advise from the perspectives of both the employers and the employees. Jacinta also regularly appears in appeals and judicial review proceedings relating to Industrial Court awards, decisions of the Honorable Minister of Human Resources as well as employment matters filed in the Civil Courts.

In addition, she conducts seminars and training on industrial relations / employment issues for her clients.

# Program Details

## PROGRAM SUMMARY

Program:	Malaysia HR & Employment Law: Keeping HR Leaders Updated on the Changes and Challenges on Malaysia Employment Law	Early Bird 1 (Register & pay by 29 Apr 2013):	US\$1,950
Dates:	24 June - 25 June 2013 (2 days)	Early Bird 2 (Register & pay by 27 May 2013):	US\$2,150
Location:	Shangri-La Hotel, Kuala Lumpur, Malaysia	Regular Tuition Fee:	US\$2,250
		For limited time only by 27 May 2013, register 2 participants and the third participant will receive a complimentary seat (only one discount scheme applies).	

**Program Essence:** This comprehensive two days executive program *“Malaysia HR & Employment Law: Keeping HR Leaders Updated on the Changes and Challenges of Malaysia Employment Law”* is designed for Malaysia’s leading practitioners within the employment/HR sector, business owners, or those who expecting to have staffing responsibility in Malaysia. Participants will gain comprehensive knowledge on **latest update on the recent amendments to Labour law in Malaysia, fair employment practice, managing and understanding legal risks when terminating employees, and dealing with people issues and staff migration in corporate re-organization**. You can also hear from our experts on **how to effectively drafting and managing employment contract, what is employer’s data protection obligations towards employees, and also understanding trade unions act to achieve harmonious industrial relations**.

The program will be conducted by top-tier dedicated employment lawyers with immaculate track record in presenting jargon-free legal seminars in an engaging and energetic way – while presenting strategic legal advice on reducing imminent risk in employment law and maximizing employee productivity and profitability.

## PROGRAM INTRODUCTION

In recent years, the Malaysian Government has introduced various pieces of labour legislation which employers have had to implement which include the most recent proposed amendments to the labour law on minimum wage order, retirement age, sexual harassment and maternity leave entitlements.

Employment matters can often be both complex and confusing. New policies, regulations and rules in employment law can be confounding even for the most seasoned HR professionals. Failing to adhere to new regulations and proper administration can put an employer in a vulnerable position and open to the risk of unlawful practices, lawsuits and litigations; which contributes to a great deal of stress, lowered productivity and high turnover rate. Thus, an understanding of the Malaysia Employment legal environment can help parties structure their deals in ways that allow them to take advantage of those areas in which the law can assist and to minimize risks by following the correct procedures where consultation or negotiation is required.

Designed for Malaysia’s leading practitioners within the employment/HR sector, business owners, or those who expecting to have staffing responsibility in Malaysia. Participants will gain comprehensive knowledge on **latest update on the recent amendments to Labour law in Malaysia, fair employment practice, managing and understanding legal risks when terminating employees, and dealing with people issues and staff migration in corporate re-organization**. You can also hear from our expertson **how to effectively drafting and managing employment contract, what is employer’s data protection obligations towards employees, and also understanding trade unions act to achieve harmonious industrial relations**.

At the end of the two days program, you will be armed with a true understanding of HR law and to ensure that your organization and its policies are fair, compliant, and consistent.

# Program Details

## WHO WILL BENEFIT MOST

This course is designed for all Executives, Managers, Directors, Vice Presidents, Supervisors, Superintendent dealing with Human Resource, Learning/Training Development, Organizational Development, Workplace Relations & Compliance, Employment Relations, Talent & Recruitment, Remuneration, Compensation & Benefits, Mediators & Arbitrators of Employment Law, and People Development.

This course is also applicable to General Manager, business owners, or those who expecting to have staffing responsibility.

## KEY HIGHLIGHTS

- Recent update on the amendments to the Employment law in Malaysia and how these affect employers
- The significance of Code of Conduct for Industrial harmony: Fair employment practice
- Understanding and managing legal risks when terminating your employees
- Dealing with people issues and staff migration during corporate re-organization
- Effectively drafting and managing employment contract
- Find out employer's data protection obligations towards employees
- Learning about Trade Unions Act to achieve harmonious industrial relations

## PROGRAM OUTLINE

### DAY ONE - MORNING

#### NEW LEGISLATION AND RECENT AMENDMENTS TO THE LABOUR LAW IN MALAYSIA: HOW THESE AFFECT EMPLOYERS

- National Wages Consultative Council Act 2011
- Minimum Wages Order 2012
- Guidelines on the Implementation of the MWO 2012
- Minimum Retirement Age Act 2012
- Amendments to Employment Act 1959
- New statutory obligations for dealing with sexual harassment
- Maternity leave entitlements
- Contractors for labour
- Miscellaneous provisions

#### EMPLOYMENT TERMINATION – UNDERSTANDING AND MANAGING LEGAL RISKS

- Hiring and firing in employment context
- Rights and remedies under common law and statute
- Concept and protection of security of tenure
- Statutory protection: Processes and powers in dealing with complaints of unjust dismissal
- Who is a workman
- Grounds for dismissal: What constitutes just cause or excuse
- Termination decisions: Limitations on Managerial prerogatives
- The Industrial Court: Functions and powers
- Remedies for unjust dismissal

# Program Details

## PROGRAM OUTLINE

### DAY ONE - AFTERNOON

#### CORPORATE REORGANISATION – DEALING WITH PEOPLE ISSUES AND STAFF MIGRATION

- Managerial prerogative and corporate reorganizations
- Mergers, takeover, acquisition or localisation
- Significance of corporate reorganization on staff
- Statutory and Legal Obligations
- Standards of good industrial relations practice
- Reorganisation, redundancies and retrenchments
- Reorganisation, transfers and change of employer
- The Industrial Court and retrenchment decisions: Reviewability and justiciability
- Principles and guidelines set out in the Code of Conduct for Industrial Harmony 1975
- The consequences of wrongful human resource decisions

#### FAIR EMPLOYMENT PRACTICES: SIGNIFICANCE OF THE CODE OF CONDUCT FOR INDUSTRIAL HARMONY

- Managerial prerogatives: Meaning, scope and expression
- Statutory intervention in balancing rights of employers and employees
- Tripartism in conduct and pactice of industrial relations for achieving industrial harmony
- Exercise of managerial prerogative balanced by fair labour practices
- Unfair labour practices: Implications on exercise of managerial prerogative
- The Code of Conduct for Industrial Harmony 1975: Intent, content and implications
- Impact on procedure for disciplinary action
- Impact on redundancy and retrenchment decision-making

### DAY TWO - MORNING

#### EFFECTIVELY DRAFTING AND MANAGING EMPLOYMENT CONTRACT

- Types of employment contract
- Understanding Employment terms in the contract
- Evaluating key clauses and conditions of employment
- Protecting confidential information through contract of employment
- Avoiding common pitfalls that may arise when drafting employment contracts
- Effectively handling dispute
- Termination of employment contract
- Addressing issues in foreign labor employment contract

### DAY TWO - AFTERNOON

#### EMPLOYERS DATA PROTECTION OBLIGATIONS TOWARDS EMPLOYEES – NEW LEGAL CHALLENGES FOR MALAYSIA

- Application of the Data Protection Act 2010
- Personal Data Protection Principles
- Rights of Data Subjects (Employees)
- Important provisions of the Act.

#### UNDERSTANDING TRADE UNIONS ACT TO ACHIEVE HARMONIOUS INDUSTRIAL RELATIONS

- Recognition of Trade Unions
- Immunity for Trade Unions
- Strike, Picketing and Lock-out
- Union busting exercises

## REGISTRATION PAGE

BookingContact(ApprovingManager)Mr/Mrs/Ms: \_\_\_\_\_  
Job Title: \_\_\_\_\_ Department: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email: \_\_\_\_\_  
Organisation: \_\_\_\_\_  
Address: \_\_\_\_\_  
Postal Code: \_\_\_\_\_  
 I would like to receive more information on hotel accomodation using Clariden Global coporate rate.

### Please Register the following participant(s) for this Program:

1st Participant Name (Mr/Mrs/Ms): \_\_\_\_\_  
Job Title: \_\_\_\_\_ Department: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
2nd Participant Name (Mr/Mrs/Ms): \_\_\_\_\_  
Job Title: \_\_\_\_\_ Department: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
3rd Participant Name (Mr/Mrs/Ms): \_\_\_\_\_  
Job Title: \_\_\_\_\_ Department: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
4th Participant Name (Mr/Mrs/Ms): \_\_\_\_\_  
Job Title: \_\_\_\_\_ Department: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

### PROGRAM FEES

**1ST EARLY BIRD FEE: US\$1,950**  
(Registration and payment must be received by 29 April 2013)

**2ND EARLY BIRD FEE: US\$2,190**  
(Registration and payment must be received by 27 May 2013)

**REGULAR FEE: US\$2,290**

**GROUP DISCOUNT:**

For registrations of 2 from the same company and billing source, the 3<sup>rd</sup> participant receives a complimentary seat.

One discount scheme applies per company.

Important Notice: Payments are required with registration and must be received prior to the Course to guarantee your place.

### PAYMENT METHODS

#### BY CHEQUE / BANK DRAFT :

Made payable to Clariden Global Pte Ltd and mail to: 3 International Business Park, #04-31, Nordic European Centre, Singapore 609927.

#### BY TELEGRAPHIC TRANSFER TO:

Bank Name: **DBS BANK**  
Bank Branch Code: **027**  
Bank Address: **6 Shenton Way, DBS Building, Singapore 068809**  
Bank Account No: **027-903583-8**  
Bank Account name: **Clariden Global Pte Ltd**  
Bank SWIFT Code: **DBSSSGSG**

Please note that all bank charges are to be borne by participants. Please ensure Clariden Global receives the full invoiced amount.

Note: Please include invoice number on all payment types and your company's name in your payment instructions for our reference.

#### CREDIT CARD:

To make payment by credit card, please call our client services hotline at +65 6899 5030.

### 4 WAYS TO REGISTER



Email: [admissions@claridenglobal.com](mailto:admissions@claridenglobal.com)



Fax: +65 6567 4328



Call: +65 6899 5030



Website: [www.claridenglobal.com](http://www.claridenglobal.com)

### DATE AND LOCATION

This executive program will be held at:

**Shangri-La Hotel, Kuala Lumpur**

24 June – 25 June 2013

11 Jalan Sultan Ismail, Kuala Lumpur, 50250, Malaysia

Tel: +60 3 2032 2388

Website: <http://www.shangri-la.com/kualalumpur/shangrila/>

The fee for this two-day executive program includes all written materials, lunch and refreshments.

### HOW TO REGISTER AND PAY

An invoice and registration confirmation will be sent within 7 days, please contact us if you have not heard from us within 7 days. Payment can be made by credit card, by bank transfer or by cheque made payable to "Clariden Global Pte Ltd.

**ALL PAYMENTS MUST BE RECEIVED IN ADVANCE OF THE EVENT.**

### ACCOMMODATION

Accommodation is not included in the program fee but you will be entitled to use our corporate rate for your accommodation. Information will be sent along with your registration confirmation.

### SPONSORSHIP

#### INTERESTED IN PROMOTING YOUR ORGANIZATION TO OUR PARTICIPANTS

For more information on sponsorship, tabletop displays & insert opportunities, please contact us at 6899 5030.

### CANCELLATIONS AND SUBSTITUTIONS

Once we have received your booking, the place(s) are confirmed. No refunds will be made for any cancellations, however, program credits of equivalent value only applicable for Clariden Global events will be provided. Credits can only be redeemed for 1 program and is valid for only one (1) year from date of issue.

Substitution with a qualified candidate is allowed by providing at least 5 working days of advance notice to Clariden Global. One time substitution is allowed with no charges. Subsequent substitutions will be charged 10% admin fee.

### ALL CANCELLATIONS MUST BE RECEIVED IN WRITTEN FORM

PLEASE NOTE: Clariden Global Pte Ltd reserves the right to change the content and timing of the programme, the speakers and the date and venue due to reasons beyond their control. If in the unlikely event that the course is cancelled, Clariden Global Pte Ltd will refund the full amount and disclaim any further liability.

ENQUIRIES: If you have any queries about registration or payment please do not hesitate to contact our client services department on +65 6899 5030.

PRIVATE DISCLOSURE STATEMENT: Any information provided by you in relation to this event is being collected by Clariden Global Pte Ltd and will be held in the strictest confidence. It will be added to our database for the primary purpose of providing you with information about future events and services.

Visit us at [www.claridenglobal.com](http://www.claridenglobal.com) for upcoming events

### FOR OFFICIAL USE

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