Handling Employment Disputes, Termination and Dismissal in Malaysia

Faculty Director

Trevor George De Silva
Partner
Trevor George Partnership

- Constantly recognized as a Leading Lawyer by the Asia Pacific Legal 500 for Corporate Litigation and Industrial Law
- Ranked by Chambers Asia Pacific for consecutive 5 years since 2009 as the Leading Lawyer in the area of Employment and Industrial Relations
- Frequently consulted and engaged by Multinational Corporations in Malaysia for employment related advices for more than 18 years

Trevor George De Silva is currently Partner at Trevor George Partnership, a firm which recently won Corporate INTL Legal Awards 2013 as Law Firm of the Year in Malaysia for Labor & Employment Litigation. 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 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. Trevor has been recognized by The Asia Pacific Legal 500 in 2004 & 2005 for Corporate Litigation and Industrial law, and has since been consistently ranked by Chambers Asia Pacific for 5 consecutive years since 2009 in the area of Employment & Industrial Relations. In addition, Chambers Asia Pacific Guide 2013 describes Trevor as “a well-respected litigator, best known for his appellate representation”. He frequently delivers conference papers, and conducts seminars on employment law and related areas, both in public forums as well as for the firm’s clients. 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.
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Trevor George De Silva is currently Partner at Trevor George Partnership, a firm which recently won Corporate INTL Legal Awards 2013 as Law Firm of the Year in Malaysia for Labor & Employment Litigation. His present mainstay in Trevor George Partnership is Civil & Commercial litigation, with Corporate and Probate litigation following close at its heels. His practice (which includes appearances both as Counsel and solicitor) involves interlocutory applications and the conduct of trials (both in the civil courts as well as in arbitrations). 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 in 2004 & 2005 for Corporate Litigation and Industrial law, and has since been consistently ranked by Chambers Asia Pacific for 5 consecutive years since 2009 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 on 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.

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EXECUTIVE SUMMARY

Program: Handling Employment Disputes, Termination and Dismissal in Malaysia
Dates: 18 – 19 June 2014
Location: Shangri-La Hotel Kuala Lumpur, Malaysia

Early Bird 1 (Register & pay by 2 May 2014): US$1,950
Early Bird 2 (Register & pay by 30 May 2014): US$2,150
Regular Tuition Fee: US$2,250

Group discount of 10% for 2nd participants from the same organization

For limited time only by 30 May 2014, registration for 3 participants, the 4th participant will receive a complimentary seat (one discount scheme apply).
Program Details

Program Essence:
This highly interactive two-day seminar is designed to provide participants with an in-depth knowledge on the overall termination and dismissal procedures for both local employees and expatriates in Malaysia. You will find out the acceptable grounds for termination and dismissal based on Malaysia Employment Act, the processes, as well as strategies to terminate and dismiss employees without violating the law. Designed for HR Professionals in Malaysia, you will learn how to handle any potential disputes arising during the termination process. In addition, our expert trainer will also share post-dismissal procedures in order to protect your business after the termination takes place. On top of that, find out how to represent employer effectively as HR Professional in the Industrial Court when employees lodge their complaints. Throughout the program, you will be involved in several case studies discussions drawn from actual legal cases to maximize the learning benefits and also to help you leave with specific actions steps for resolving current and future challenges. At the end of the program, you will leave this course with the confidence to deal with termination and dismissal process as well as any potential disputes arising.

PROGRAM INTRODUCTION
The decision to terminate an employee carries with it the risk of a possible legal challenge. Employers need to be cognizant of possible discrimination claims arising from employment termination. Under Malaysia Employment Act, any workman who have served a qualifying period are legally protected from being dismissed unfairly. Thus, it is crucial for employers in Malaysia to be aware of the proper legal procedure when terminating employees. Failing to adhere to this can put an employer in a vulnerable position and risk being involved in unlawful practices, lawsuits and litigations. This comprehensive two-day executive program is designed to enable delegates to recognize and deal with the risks and benefits of workplace law while avoiding potential disputes and claims.

Designed for HR Professionals, you will gain an in-depth knowledge on the overall termination and dismissal procedures for both local employees and expatriates in Malaysia. You will find out the acceptable grounds for termination and dismissal based on Malaysia Employment Act, the processes, as well as strategies to terminate and dismiss employees without violating law. In addition, you will learn how to handle any potential disputes arising during the termination process. Our expert trainer will also share post-dismissal procedures in order to protect your business after the termination takes place. On top of that, find out how to represent employer effectively as HR Professional in the Industrial Court when employees lodge their complaints. Throughout the program, you will be involved in several case studies discussions drawn from actual legal cases to maximize the learning benefits and also to help you leave with specific actions steps for resolving current and future challenges.

At the end of the program, you will leave this course with the confidence to deal with termination and dismissal process as well as any potential disputes arising.

WHO WILL BENEFIT THE MOST
This course is designed for all Managers, Directors, and Human Resource Personnel who are involved in Workplace Relations & Compliance, Labor Relations, Organizational Development, Talent & Recruitment, Mediators & Arbitrators of employment law, counseling, discipline, and termination process.

LEARNING OBJECTIVES
- Understand acceptable grounds for termination and dismissal according to Malaysia Employment Act
- Be familiar with termination and dismissal procedures from investigation, payment, all the way to the proceedings
- Identify the differences in dismissing expatriates and local employees in Malaysia
- Learn best practices / strategies in terminating and dismissing employees without violating the law
- Effectively handling of any potential disputes that arise during the termination and dismissal process
- Discover how to present your employers effectively in the Industrial Court when Employees lodge complaints
- Find out ways to preserve evidences post dismissal process to protect company’s interests
- Case studies related to employment termination and dispute resolution to maximize the learning benefits
Program Outline & Agenda

DAY 1 Morning

Basic Understanding on Employment Disputes
- What is the meaning of a dispute under Employment Act 1955?
- Meaning of a dismissal under Section 20 Industrial Relations Act 1967
- Trade Disputes (involving Unions)
- Dealing with Civil Law Disputes
  - Civil Actions
  - Breach of Contract

Termination
- Termination due to Poor performance
- What is “termination simpliciter”?

DAY 1 Afternoon

Procedure on Termination
- Investigation
- Suspension
- Notice to Show Cause
- Domestic Inquiry Notice
- Domestic Inquiry Proceedings
- Punishment
- Dismissal

DAY 2 Morning

Dismissal (under the heading of Just Cause & Excuse)
- Unsatisfactory Performance
- Redundancy/Retrenchment
- Resignation/Mutual Separation
- Misconduct
- Constructive Dismissal

Procedure on Dismissal
- Pre-dismissal Protocol
- Dismissal
  - Payment for unutilized leave
  - Payment of salary during suspension period
  - Payment for contractual benefit
  - Recovery of company property
- Difference in dismissing an Expatriate employee
  - Application on work permit
  - Notification to Immigration Department
  - Cancellation of work permit
Program Outline & Agenda

DAY 2 Afternoon

Post Dismissal Procedure
- Preservation of evidence (to be admitted in Court)
  - Documentary evidence
  - Oral testimony
  - Domestic Inquiry notes & recordings
  - Physical evidence
- Is police report necessary?
- Strict requirement of Section 20 Industrial Relations Act 1967 representation

Minster Reference to Industrial Court
- Reconciliation meeting at the Industrial Relations Department
- Minster’s Reference from Department of Industrial Relations
- Can it be challenge by way of a Judicial Review?
- Industrial Court Proceedings
- Raising of preliminary objection
- Hearings and Trials in Industrial Court
- Industrial Court Award
- Can it be set aside/reverse on Judicial Review?
REGISTRATION PAGE

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

1st Participant Name (Mr/Mrs/Ms):____________________________________
Job Title:___________________ Department:_____________________________
Telephone:___________________________ Fax:___________________________
Email:_____________________________________ Date of Birth:______________
Organization:_____________________________________________________
Address:_________________________________________________________
Postal Code:____________
Organization:_____________________________________________________
Email:____________________________________________________________
Telephone:_______________________ Fax:____________________________
Job Title:_________________________    Department:_____________________
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:______________

I would like to receive more information on hotel accommodation using Clariden Global corporate rate.

Please note that all bank charges are to be borne by participants, please ensure Clariden Global International Limited 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.

BY CHEQUE / BANK DRAFT :
Made payable to CLARIDEN GLOBAL INTERNATIONAL LIMITED and mail to: 3 International Business Park, #04-29, Nordic European Centre, Singapore 609927.

BY TELEGRAPHIC TRANSFER TO:
Bank Name: Standard Chartered Bank
Bank Code: 7144
Bank Branch Code: 001
Bank Address: 6 Battery Road, #01-01 Singapore 049909
Bank Account No: 010775042
Bank Account name: CLARIDEN GLOBAL INTERNATION LIMITED
SWIFT Code: SCBLSGSG

PAYMENT METHODS

1ST EARLY BIRD FEE: US$1,950
(Registration and payment must be received by 2 May 2014)

2ND EARLY BIRD FEE: US$2,150
(Registration and payment must be received by 30 May 2014)

REGULAR FEE: US$2,250

GROUP DISCOUNT: For 2 registrations from the same company and billing source, the 2nd participant enjoys a 10% discount.

For registrations before 30 May 2014 and for 3 or more participants, the 4th participant will receive a complimentary seat.

Important Notice: Payments are required with registration and billing source, the 2nd participant enjoys a 10% discount.

All payments must be received in advance.

PROGRAM FEES

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 International Limited”. 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 +65 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 International Limited 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 International Limited 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 International Limited 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 for upcoming events.

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