

# HANDBOOK of POINTS TO REMEMBER on EMPLOYMENT LAWS

**for the Human Resources & Administration Managers,  
Malaysia**

**Revised 2nd Edition**

*A Quick-Reference Book*

*for the Human Resources & Administration Managers*

• You will find this book pleasing to the eyes,  
while you absorb  
the practical aspects of employment laws,  
as practised in Malaysia.

• You can flip through any page of the book  
and you will find it self-contained  
and complete in itself for each topic.

• Long sentences of the laws are broken  
into convenient parts,  
so that you can absorb the points of the laws.

• This book is not for reading like a textbook.  
It is meant for reading  
during those odd moments of 2 or 3 minutes,  
without straining your thinking power,  
on selected topics on employment laws.

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**MATERNITY LEAVE PERIOD:  
HOW CALCULATED**

According to EA §37(1), a female employee is entitled to paid maternity leave of not less than 60 *consecutive days*. Therefore, it is *not working days*.

According to EA §60D(1B), if the public holiday falls within the period during which an employee is on *sick leave, or annual leave, or temporarily disabled under Workmen's Compensation Act 1952 or SOCSO*, the employer must give another day as a paid public holiday in substitution of such public holiday.

*Maternity leave is not mentioned* in the above EA §60D(1B).

Therefore, an employer need not give another day as a paid public holiday if a public holiday falls during an employee's maternity leave period.

**Points to Remember**

When calculating the maternity leave period, *public holidays are to be ignored*.  
*Just count the days. Not working days. Just the days.*

**EMPLOYMENT & TERMINATION  
OF FOREIGN EMPLOYEES**

**Employment**

The term "*foreign employee*" does not include a foreign employee who is a permanent resident of Malaysia.

EA §60K(1) says: an employer who employs a foreign employee:  
(a) *must furnish DG with particulars of the foreign employee, and*  
(b) *the particulars provided to DG must be in such a manner as determined by the DG, and*  
(c) *it must be done within 14 days of the employment.*

The DG can also require an employer or class of employers to furnish returns to the DG regarding the employment of foreign employees in such manner and at such intervals as the DG directs.

**Termination**

If the service of a foreign employee is terminated –  
(a) *by the employer; or*  
(b) *by the foreign employee; or*  
(c) *upon the expiry of the employment pass issued by the Immigration Department of Malaysia; or*  
(d) *by repatriation or deportation of the foreign employee,*  
the employer must, within 30 days of the termination of service, inform the DG of the termination. EA §60K(3)

**Points to Remember**

Under EA §60K(4), the termination of service also includes the act of the foreign employee absconding from the place of employment.

**TERMINATION OF CONTRACT OR DEATH  
DURING MATERNITY LEAVE PERIOD**

**Termination During Maternity Leave**

An employer cannot terminate the service of a female employee during the period in which she is entitled to maternity leave.

However, under EA §37(4), a termination due to the closure of the employer's business is not counted for this purpose.

**Death During Maternity Leave**

Under EA §39: If a female employee commences her maternity leave and *dies from any cause* during the eligible period, the maternity allowance must be paid:

- to the nominee or,
- if there is no such person, to her legal personal representative.

**Points to Remember**

Under EA §40(1), a female employee:

- who is about to leave her employment, and
- who knows or has reason to believe that she will be confined within 4 months from the date she leaves,
- must, before leaving, notify her employer of her pregnancy.

If she fails to do so, she will not be entitled to receive any maternity allowance from such employer.

These are

**SAMPLE PAGES**

from the

**HANDBOOK of POINTS to REMEMBER**

on

**EMPLOYMENT LAWS,**

**Malaysia**

**The whole HANDBOOK is set  
in such a style  
that you will not find it  
strenuous, tiring or boring  
when you use the book.**