

# Philippines knowledgebase

## Hiring blueprint

### Core employment practices

The Philippine Labour Code regulates employment practices, protecting employees' rights, wages, hours, benefits, and working conditions. It applies to various employee types and ensures fair treatment and dispute resolution for medium-sized businesses. Freedom of contracting

Contracting parties have the freedom to establish stipulations, clauses, terms, and conditions as they see fit, provided they don't contradict law, morals, good customs, public order, or policy. Contracts are the law between parties, binding obligations in good faith unless contrary to law. The contract must bind both parties, ensuring their validity and compliance.

### Priority of employment rights

The priority of employment rights in the Philippines focuses on promoting workers' welfare and social justice. Key elements include the enforcement of fair labour practices, such as the payment of minimum wage and overtime compensation, and ensuring safe and healthy working conditions. The Labour Code also prioritizes employees' rights to security of tenure, protecting them against unfair dismissal, and supports workers' rights to unionize and engage in collective bargaining. Additionally, there are specific protections for vulnerable groups, such as women, children, and migrant workers, to ensure their rights and dignity are upheld.

### Employment contracts

The Department of Labour and Employment (DOLE) enforces employment laws, ensuring compliance with minimum employment benefits and standards. The law recognizes five types of employment contracts: regular, probationary, project-based, fixed period, and seasonal. An employment contract, either oral or written, must meet the labour code's essential requirements and minimum statutory standards. Employers must provide a dual language contract in Filipino if an employee is a Philippine national to ensure accurate communication. The contract should include job position, status, pay, employee benefits, probationary period, periods of notice, code of conduct, employee grievance mechanism, and company policies.

### Working hours

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Employees are entitled to a minimum of eight hours per day or 48 hours per week, with a daily unpaid meal break of at least one hour or a paid meal break of 20 minutes. Overtime compensation is set at a rate equivalent to the standard wage plus a minimum of 25%, with higher rates applicable on rest days. Exceptions to overtime pay entitlement include government employees, managerial personnel, field staff, dependent family members, domestic workers, and individuals compensated on a results-based basis.

## Leave entitlements

In the Philippines, employees are entitled to 12 paid regular holidays and three special non-working unpaid holidays. They are not entitled to statutory sick leave, but can be granted through voluntary employer policies or collective bargaining agreements. The labour law grants paid maternity leave to female employees and seven days of paid paternity leave to male employees. Employers in the Philippines offer more generous vacation leave policies, with many providing 10-15 days of paid vacation leave annually. Employees must be considered regular employees and accrue monthly vacation leave. The carry-over of unused leave or conversion to cash is left to the employer's discretion. Employers often provide additional leave, such as vacation leave, sick leave, bereavement leave, and emergency leave.

## Termination of employment

In the Philippines, employers can only terminate an employee's relationship if a "just" or "authorized" cause has been established, after undergoing due process. There are two types of employment termination: termination by employer and voluntary resignation or termination by employee. Just causes are based on acts attributable to an employee's own wrongful actions or negligence, while authorized causes refer to lawful grounds for termination that do not arise from fault or negligence. Voluntary resignation is defined as a voluntary act committed by employees who knowingly dissociate themselves from their employment for personal reasons.

## Health and safety

The Philippines' health and safety laws, governed by Republic Act No. 11058 and The Labour Code of the Philippines, aim to protect workers' well-being and outline worker rights and employer obligations. Employers are required to provide a safe workplace free from hazards, including safe work areas, equipment, and processes. They must also develop and implement an Occupational Safety and Health (OSH) Program, provide information, instruction, and training to employees, establish a Safety and Health Committee, and report accidents and dangerous occurrences to the Department of Labour and Employment (DOLE).

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The Department of Labour and Employment (DOLE) enforces OSH laws, with penalties for violations ranging from fines to closure of establishments. Improvements in OSH include extending protection to the informal sector, increasing OSH professionals and resources, and enhancing educational campaigns for both employers and workers.

## Discrimination and equal treatment

The Philippines has laws protecting employees against discrimination, including sex, age, marital status, disability, mental health conditions, ethnicity, HIV status, tuberculosis, hepatitis B, cancer, and union membership. The Safe Spaces Act mandates employers to prevent, deter, or punish gender-based sexual harassment. Employees can file a discrimination claim, and remedies include monetary awards, reinstatement, full back wages, damages, or criminal cases. Whistleblowing protection is not available in the Philippines, but employers are obligated to promote gender equality and diversity.

## Collective bargaining

A Collective Bargaining Agreement (CBA) is a contract between an employer and a employees' sole and exclusive bargaining agent, aimed at collective bargaining. The CBA covers wages, hours of work, and other employment terms and conditions, including proposals for adjusting grievances. It is a fundamental doctrine in labour law, requiring parties to comply with its provisions. Parties can establish stipulations, clauses, and terms as they deem convenient, provided they do not contradict law, morals, good customs, public order, or policy. A CBA is more than a contract; it is a generalized code that governs various employment relationships, prescribing rights and duties, and addressing grievance mechanisms.

## Employment of foreigners

Employment in the Philippines requires foreigners to obtain an Alien Employment Permit (AEP) from the Department of Labour and Employment, which is issued after determining the non-availability of a competent, able, and willing person in the country. Foreigners must also obtain a work visa and secure their Taxpayer Identification Number. Foreign employers must establish a local presence or work with local entities to hire an employee. However, there are certain obligations imposed by different laws, such as compliance with mandatory contribution requirements and withholding and remittance of taxes on compensation. The Secretary of Labour and Employment has visitorial and enforcement powers over employers' premises, ensuring compliance with labour code regulations.

## Minimum wage

The Philippines' minimum wage policy applies to all private sector workers, regardless of job title or employment status. The National Wages and Productivity Commission (NWPC) is responsible for upholding the minimum wage laws, establishing rules and guidelines for

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determining appropriate wage and productivity measures at regional, provincial, and industry levels. The Regional Board sets regional minimum wages based on factors such as workers' needs, living costs, wage levels, income distribution, employment generation, employer capacity, wage adjustment, consumer price index, and promoting rural investment and improved living standards.

Compliance with minimum wage laws in the Philippines is subject to legal penalties under Republic Act 8188. Employers are liable to be fined between PHP 25,000 and PHP 100,000, imprisoned for two to four years, or both at the discretion of the court. Additionally, the employer must pay an amount equal to double the underpaid benefits owed to the employees.

## Pay increases

Salary increases in the Philippines are based on factors such as inflation rates, living costs, company performance, and individual employee performance. Employers have the latitude to implement salary increases based on their financial capability, business needs, and internal policies, as long as they comply with minimum wage laws and any relevant Wage Orders. However, any proposed change to the frequency or amount of salary increases should be communicated to employees in advance, following the principles of fair labour practices and good faith employment relationships. The move to biennial salary increases must be scrutinized for compliance with minimum wage laws, contractual obligations, and potential labour disputes. Companies should approach compensation adjustments with a balanced perspective, ensuring compliance with legal mandates while fostering a positive employment environment.

## Reduction of wages

The Labour Code prohibits wage withholding and kickbacks, ensuring that employees receive their wages without any deduction. This provision allows wage withholding if there is consent from the worker, but it must be voluntary and free from any form of bad faith on the part of the employer. Employers are also prohibited from making deductions from wages for the benefit of the employer or their representative, as consideration of a promise of employment or retention in employment. Retaliatory measures against employees who have filed a labour complaint or testified in such proceedings are also prohibited.

## Social security and benefits

The Philippines' Social Security Program provides employees with various benefits, including death, disability, sickness, maternity, old age, and unemployment. The National Health Insurance Program ensures universal health insurance coverage and affordable healthcare services. In 2024, the monthly premium rate was raised to 5% of the employee's basic salary. Employers are required to provide paid leaves, including Service Incentive

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Leave, Maternity Leave, Paternity Leave, Parental Leave, Special Leave for Women, and Leave under the Violence Against Women Act. All private sector employees have the right to receive retirement benefits, calculated based on one-half month of salary for each year of service.

## Labour laws

### Legal framework

The Philippines Labour Code, established by President Ferdinand Marcos in 1974 as Presidential Decree No. 442, serves as a legal framework for employment in the country. It outlines rules on hiring practices, work conditions, benefits, working hours, and termination. The Department of Labour and Employment (DOLE) is responsible for promulgating the labour code's advocacies. The labour code covers various aspects of employment, including training policies, work conditions, health, safety, and social welfare benefits, unfair labour practices, and post-employment termination and retirement.

The DOLE is responsible for regulating employment laws and ensuring the welfare of workers against unjust and discriminatory practices.

The Labour Code applies to all employees, regardless of their sector, regardless of whether they belong to an agricultural or non-agricultural sector. The Philippine legal system combines civil and common law, with the Constitution as the highest law and the Labour Code as the statute regulating employment relationships. The employment landscape in the Philippines is generally pro-labour, with the 1987 Constitution recognizing employees' rights such as self-organisation, collective bargaining, and peaceful activities.

Employers also have the right to strike in accordance with the law, security of tenure, humane work conditions, and a living wage. They also have the right to participate in policy-making processes affecting their rights and benefits.

Employers have the right to reasonable returns on investments and expansion and growth, with management having the right to manage, control, and use property, conduct business in its best manner, prescribe rules and regulations, select workers, and transfer, reduce, or lay off workers, provided these rights are exercised in good faith and in accordance with applicable Philippine law and subsisting contracts.

## Employment contract

### Types of employment contract

The Labour Code defines different types of employment according to the duration of duties and job responsibilities in employment contracts. There are five categories of employment arrangements:

- Regular Employment: The employee is engaged for an indefinite period
- Project Employment: The employment period is fixed for a specific undertaking
- Seasonal Employment: The employment period is limited to a certain time of the year
- Casual Employment: The employee is engaged for work that is incidental to the business of the employer and for a definite period
- Fixed-Term Employment: The duration of employment is specified before the commencement of the employment relationship.

Fixed-term contracts are not confined to seasonal work but extend to employment arrangements where both parties have voluntarily agreed on a fixed period of employment.

Part-time workers in regular employment are entitled to the same rights as permanent employees. An employee is considered a Regular employee if they perform activities that are necessary or desirable in the employer's usual business or trade. If the employment relationship qualifies as an alternative employment arrangement, the employee is still deemed a regular employee.

Project employment occurs when the period of employment is fixed for a specific undertaking. An employee may acquire regular employee status if they are continuously rehired after the completion of a project and the tasks performed are vital, necessary, and indispensable to the employer's usual business or trade.

Seasonal employment is defined by work performed only during a certain time of the year, with employment lasting for that specific period.

Casual employment involves an employee engaged to perform work incidental to the employer's business for a definite period, which is made known to the employee at the time of engagement. If a casual employee renders at least one year of service, they are considered a regular employee with respect to the activity for which they are employed.

Fixed-period employment is highly restricted and subject to the following criteria:

- The fixed period of employment was knowingly and voluntarily agreed upon by both parties without any force, duress, or improper pressure.
- It satisfactorily appears that the employer and the employee negotiated on equal terms.

## Content of an employment contract

The Labour Code of the Philippines sets minimum standards for employment contracts, ensuring that they adhere to the terms and conditions of employment. According to the Labour Code these standards include:

- Employee's details (name, address, contact number, etc.)
  - Job position
  - Job description
  - Remuneration and Employee benefits
  - Length and condition of probationary period, if any
  - Periods of notice
  - Code of conduct
  - Employee grievance mechanism
- Company policies An Employment Contract is a legally binding agreement between an employer and an employee outlining the terms and conditions of their employment relationship. This contract specifies the rights, duties and obligations of both parties and is governed by Philippine labour laws.

Parties are generally free to negotiate the terms and conditions of the contract, provided that they comply with the minimum statutory standards and are not less favorable than those prescribed by the Code.

## Oral, written, or electronic employment contracts

An employment contract must not only meet the basic requirements such as consent, purpose and reason in order to establish a legal relationship, but must also comply with some formal requirements. The employment contract must be in writing and signed before the employee starts work.

The E-Commerce Act and the Supreme Court's Rules on Electronic Evidence in the Philippines allow electronic signatures and electronic documents to be legally recognised. However, the law also has a principle of limited recognition, requiring electronic signatures to pass specific requirements. The law does not require contracts to be written in a specific language. While the most common language for contracts is English, it is advisable to provide a bilingual contract in Filipino in case the employee is a Filipino national and cannot fully understand the contract in English.

An Employment Contract is evidence of the agreed terms and conditions of the employment relationship and protects the rights of both the employer and the employee. In the event of a dispute, the Labour Contract can be used as evidence to resolve the issue.

## Key requirements

### Working hours

The Philippines has a standard working hours of eight hours daily, ensuring employees have sufficient time for rest and leisure outside of work. The maximum working hours are generally eight hours per day or 48 hours per week. Employees are entitled to a daily unpaid meal break of at least one hour or a paid meal break of 20 minutes.

In emergency situations, employees may be required to work overtime and outside their normal work schedule, provided they receive the applicable overtime premium.

As stated, employers may only require employees to work overtime under specific circumstances and must provide appropriate remuneration. In practice, employees' consent to work overtime is typically obtained through the signing of their labour contracts.

The Philippine Department of Labour and Employment (DOLE) regulates overtime pay for employees, with certain classes, known as "exempt employees," not entitled to overtime pay. These include;

- government employees
- managerial employees
- field personnel
- dependent family members



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- domestic helpers, and
- those paid by results.

The eligibility of employees to overtime depends on their duties and responsibilities, with those not qualifying as exempt employees entitled to overtime pay. However, those who qualify as exempt employees are not entitled to overtime pay.

Employees who work in excess of eight hours are entitled to overtime pay at a rate of 25% above their normal wage, or 30% if the work is performed on a rest day.

## Night work

To safeguard employee rights and fairly compensate their labour, labour law recognizes a clear distinction between day and night work.

According to the Philippine Labour Code, any work performed between 10:00 PM and 6:00 AM the following day is classified as night shift work.

This refers to additional compensation of at least 10 percent of an employee's applicable wage rate, payable to employees (except exempt employees) who perform work between 10 p.m. and 6 a.m. of the following day.

A different night work pay scheme may be agreed by collective labour agreement. The law imposes some restrictions on women's night work. No woman, regardless of age, shall be employed or permitted to work, with or without compensation, under the following conditions:

- In any industrial undertaking or branch thereof between 10:00 PM and 6:00 AM of the following day.
- In any commercial or non-industrial undertaking or branch thereof, other than agricultural, between midnight and 6:00 AM of the following day.
- In any agricultural undertaking at night unless she is provided with a rest period of no less than nine (9) consecutive hours.

Night work on public holidays is subject to a additional remuneration. This additional remuneration is higher than the daytime working compensation on public holidays.

## Breaks and types of leaves

It is the responsibility of employers to ensure that employees are provided with the necessary daily and weekly rest for their work tempo. Employers are required to provide employees with a minimum of one hour of non-compensable time-off for regular meals.

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However, in specific circumstances, employers may allow for a shorter meal break, but this period must be considered as compensable hours worked and should not be less than 20 minutes.

Employers may also schedule employees to work six days per week. Non-exempt employees are entitled to a rest period without pay lasting not less than 24 consecutive hours for every six consecutive normal working days. Employers are required to compensate employees for work performed on rest days at a rate equivalent to the applicable wage plus an additional 30 percent. Different rates apply if the rest day coincides with a regular holiday, special day, or if the work is conducted between 10 p.m. and 6 a.m.

Employers cannot mandate employees to work on scheduled rest days unless under specific circumstances, with proper compensation provided. Typically, this is formalised through employment contracts where employees consent to work outside their regular hours.

## Annual leave

The Philippines does not mandate private sector employers to grant annual leave or vacation leave.

Except for exempt employees, every employee who has rendered at least one year of service is entitled to a yearly service incentive leave of five days with pay.

In the Philippines, employers are required to provide SIL, the legal minimum for employees, but many offer more generous vacation leave policies, providing 10-15 days of paid leave annually. Companies that offer vacation leave exceeding 5 days are not required to provide the additional SIL days.

If the service incentive leave is not used or exhausted by the end of the year, it should be converted to its monetary equivalent and paid to the non-exempt employee by the employer. As a general rule, an employer can regulate the schedule of the service incentive leave for its employees.

## Public holidays

The Philippines has 12 regular holidays and 3 special non-working holidays. In addition, each region recognises special provincial holidays that most businesses observe.

The Official Public Holidays 2025:

January 1 (Wednesday) - New Year's Day

January 29 (Wednesday) - Chinese New Year (Special Non-Working Holiday)

April 9 (Wednesday) - Araw ng Kagitingan (Day of Valor)

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April 17 (Thursday) - Maundy Thursday  
April 18 (Friday) - Good Friday  
May 1 (Thursday) - Labour Day  
June 12 (Thursday) - Independence Day  
August 25 (Monday) - National Heroes Day  
November 30 (Sunday) - Bonifacio Day  
December 25 (Thursday) - Christmas Day  
December 30 (Tuesday) - Rizal Day

There are 12 paid regular holidays each year during which employees are entitled to receive their normal rate of pay for an unworked day. Employees may be required to work on these holidays, but must be compensated at double their usual rate of pay.

Additionally, the government proclaims special non-working holidays each year, on which employers may choose to grant unpaid leave. Employees required to work on a special holiday must be paid a premium of 30% of their normal pay, or 50% if the special holiday falls on the employee's rest day.

## Salary

Employers are legally obligated to pay their employees at least the minimum wage, which varies across different regions. Additionally, overtime pay is mandatory for hours worked beyond the standard daily work hours, with rates determined by whether the overtime occurs on a regular day, a holiday, or a rest day. Here's how the overtime rates are computed:

For hours worked beyond 8 hours daily

Overtime rate = Regular hourly wage x 125%

For hours worked beyond 8 hours during a holiday: Overtime rate = Rate of the first eight hours on a holiday or rest day x 130%.

All rank-and-file employees employed by employers covered under the Revised Guidelines on the Implementation of the 13th Month Pay Law are entitled to receive a bonus known as

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"13th month pay." This entitlement applies regardless of their monthly basic salary, job designation, employment status, or method of salary payment, provided they have worked at least one month during the calendar year.

The Philippines' minimum wage policy applies to all private sector workers, regardless of job title or employment status. The National Wages and Productivity Commission (NWPC) is responsible for upholding the minimum wage laws, establishing rules and guidelines for determining appropriate wage and productivity measures at regional, provincial, and industry levels. The Regional Board sets regional minimum wages based on factors such as workers' needs, living costs, wage levels, income distribution, employment generation, employer capacity, wage adjustment, consumer price index, and promoting rural investment and improved living standards. The minimum wage as of 2025 is 645 PHP per day.

Compliance with minimum wage laws in the Philippines is subject to legal penalties under Republic Act 8188. Employers are liable to be fined between PHP 25,000 and PHP 100,000, imprisoned for two to four years, or both at the discretion of the court. Additionally, the employer must pay an amount equal to double the underpaid benefits owed to the employees.

In the Philippines, several paid holidays are observed. Employees must receive their full salary even if they do not work on these holidays. If they do work, they are entitled to additional compensation as stipulated by law.

For rank-and-file employees, the 13th month pay should amount to at least 1/12 of the total basic salary earned within the calendar year. Employers are mandated to disburse this required 13th month pay no later than 24 December each year. However, employers have the option to distribute half of the required 13th month pay before the start of the regular school year in June, with the remaining half paid on or before 24 December.

The frequency of 13th month pay disbursement can also be negotiated through an agreement between the employer and the collective bargaining agent representing the rank-and-file employees.

## Sick leave

Employees are entitled to sick leave if they cannot perform their duties due to illness or injury. A medical certificate declaring the employee fit to work must be presented to the employer before or after the sick leave is taken. Notice of sickness must be given to the employer by the employee, their dependents, or anyone on their behalf within five days from the occurrence of the contingency. No notice to the employer is required if the contingency is known to the employer or their agents or representatives.

As the Commission may approve, any employee with a temporary disability who sustains an injury or contracts an illness resulting in temporary total disability shall, for each day of such disability or fraction thereof, be paid by the System an income benefit equivalent to ninety percent of their average daily salary credit, subject to the following conditions: the daily income benefit shall not be less than Ten Pesos nor more than Ninety Pesos, and shall not be paid for a continuous period longer than one hundred twenty days, except as otherwise provided for in the Rules. The System must be notified of the injury or sickness. Upon contracting an illness or sustaining an injury, an employee shall receive necessary medical services and appliances from the Social Security System (SSS) during the period of disability, subject to the expense limits set by the Employees' Compensation Commission.

Coverage under the State Insurance Fund is mandatory for all employers and employees under sixty (60) years of age. Employees over sixty (60) who are contributing to the retirement or life insurance benefit are also subject to compulsory coverage.

Employer coverage begins on the first day of operation, and employee coverage starts on the date of employment.

The State Insurance Fund is liable for compensation to the employee or their dependents, except when disability or death results from the employee's intoxication, willful intent to harm themselves or others, or gross negligence.

Employees who suffer a permanent total disability shall receive a monthly income benefit from the System until death, plus ten percent for each dependent child (up to five children). The monthly income benefit will be adjusted to the new amount for all covered pensioners upon approval of this decree.

## Parental leave

Parental leave empowers both parents to nurture their newborn child while safeguarding their job security. In situations where the father is deceased, absent, or incapacitated, the maternity leave benefit may be reallocated to an alternate caregiver. This alternate

caregiver can be a relative within the fourth degree of consanguinity or the current partner of the female worker who resides in the same household. The mother, taking into account the best interests of the child, will elect the most suitable caregiver to receive the reallocated benefits. This flexibility ensures that the child receives the necessary care and attention during the crucial early stages of life, even in the absence of the father. Any female worker entitled to maternity leave benefits, as stipulated herein, may, at her discretion, allocate up to seven (7) days of these benefits to the child's father. This applies regardless of whether the father is married to the female worker or not. This provision ensures that the father can also participate in the early care and bonding with the newborn, fostering a supportive family environment.

If the worker qualifies as a solo parent under Republic Act No. 8972, also known as the "Solo Parents' Welfare Act," they shall be granted an additional fifteen (15) days of maternity leave with full pay.

## Paternity and maternity leave

Employers must provide paternity and maternity leave, ensuring compliance with legal mandates. All covered female workers in government and the private sector, including those in the informal economy, regardless of civil status or the legitimacy of their child, are entitled to one hundred five (105) days of maternity leave with full pay and have the option to extend for an additional thirty (30) days without pay.

Under the Paternity Leave Act of 1996, every married male employee is entitled to seven (7) days of paternity leave with full pay for the first four (4) deliveries of his legitimate spouse with whom he is cohabiting.

A female Social Security System (SSS) member who has paid at least three (3) monthly contributions within the twelve (12)-month period immediately preceding the semester of her childbirth, miscarriage, or emergency termination of pregnancy is entitled to receive a daily maternity benefit. This benefit shall be calculated based on her average monthly salary credit for a period of one hundred five (105) days, regardless of whether the delivery was via caesarean section or natural birth.

## Termination

### Methods of employment termination

Terminating an employment contract, whether due to just cause or voluntary resignation, demands fairness, transparency, and strict adherence to legal standards. This principle applies equally to employers ending an employee's contract and employees resigning from

their positions. There are three main approaches to terminating an employment contract: termination for just cause by the employer, termination for authorized reasons, and voluntary resignation by the employee.

In the Philippines, the dismissal of an employee is a sensitive process that can only be implemented for a "just" or "authorized" reason as defined in the Labour Code.

Trial periods and fixed-term contracts can be terminated without compulsion, while open-ended contracts are subject to greater protection. The Labour Code of the Philippines generally prohibits the termination of indefinite-term employment contracts. However, exceptions are provided in a restrictive manner and serve as authorized or justified grounds for termination. In all cases, the grounds presented by the employer will be systematically scrutinized through the procedure set out in this article.

The burden of proof as to the justifiability of the termination rests with the employer. The employer who fails to base the termination of the employment contract on a justified or valid reason will be subject to various obligations as part of legal proceedings.

The procedures for terminating employees with just cause and authorized cause differ significantly. Understanding these procedures is essential for both employers and employees to ensure a legally compliant termination process.

The procedure for just cause termination by the employer includes the following steps:

- Employers must identify a valid justification and gather evidence to support a just dismissal claim.
- The first termination notice to the employee must include the reason for the termination, a detailed explanation of the circumstances with supporting documents, and information that the employee has five days to submit an explanation.
- A hearing must be scheduled to allow the employee to defend themselves.
- The official decision detailing the entire case will be issued to the employee once they have been found guilty.

The procedure for authorized cause termination by the employer involves:

- Identifying a valid ground for dismissal and gathering supporting evidence.
- Providing the employee with a written notice of termination at least 30 days before the termination date, outlining the grounds for dismissal.
- Sending a copy of the written notice to the company's regional DOLE office.
- Providing separation pay based on DOLE policies and calculations, as discussed below.

## Ordinary dismissal by the employer

Termination of employment may be validly based on reasons specifically related to the employee, encompassing both personal fault and non-infringing circumstances. Personal Faults ("Just Causes")

The following instances of personal misconduct may constitute grounds for dismissal:

- Serious misconduct or willful disobedience of lawful orders from the employer or their representative in connection with work.
- Gross and habitual neglect of duties by the employee.
- Fraud or willful breach of the trust reposed in the employee by the employer or their authorized representative.
- Commission of a crime or offence against the employer, any immediate family member, or their duly authorized representatives.
- Other similar serious infractions.

## Business-Related Reasons ("Authorized Causes")

Employers may also terminate employment contracts for business-related reasons ("authorized causes") to safeguard their business operations. Acceptable cases under Philippine law include:

- Implementation of labour-saving devices or redundancy measures to curb business losses.
- Retrenchment efforts due to significant financial losses.
- Actions taken to prevent the closure of the establishment or cessation of operations.
- Justified closure of the establishment or cessation of operations not resulting from significant financial losses. Dismissal may also be warranted for non-fault-related personal grounds (just causes), such as illness, under the following conditions:
  - The illness legally prohibits the continuation of work.
  - The illness poses a risk to the health of the employee or their colleagues.
  - In cases of illness, the employer must obtain a medical certificate from a competent health authority. This certificate should specify the nature and stage of the illness that prevents the employee from continuing their duties. Additionally, the illness must be untreatable within six months from the date of the certificate's issuance, even with medical treatment. Otherwise, the employee cannot be dismissed on the grounds of illness.

Business-related grounds must not be used to circumvent other provisions on dismissal and compensation, as this would be considered fraudulent and expose the employer to sanctions.



Employers intending to implement labour-saving, redundancy, or retrenchment measures must notify the Regional Office of the Department of Labour and Employment (DOLE) at least one month before such measures take effect.

Retrenchment must be justified with evidence of significant actual or imminent financial losses.

The selection of employees for dismissal should be based on objective criteria, including but not limited to performance, efficiency, and seniority.

## Notice period and challenging the dismissal

Courts hold the power to impose significant penalties on employers who fail to follow due process in termination proceedings. The balance will always favor the employee, placing the burden of proof on the employer to justify the termination of an employment contract with an authorized or just cause. Employers who fail to provide a rightful justification for termination will face several obligations as part of legal proceedings.

In cases of wrongful dismissal, the employee is entitled to reinstatement within the company, retaining their seniority rights and privileges.

There are different notice periods according to the type of termination and its consequences. In the case of termination by the employee, there must be at least one month's prior written notice.

For authorized reasons, the legal process requires a written notice to both the employee and the relevant Regional Office of the Department of Labour and Employment (DOLE) at least thirty (30) days before the termination takes effect, stating the reason or reasons for the termination.

There are two written notices that must be completed for a just cause termination to be valid. A reasonable period of time must elapse between the 1st and 2nd written notice. If the termination is deemed unlawful by the courts, the employer must reimburse the wages the employee would have received from the date of wrongful termination until reinstatement.

If the employee is not re-employed, the employee will receive a severance payment equivalent to one month's salary for each year of service.

Additionally, the employee is entitled to any allowances and benefits they should have received during the period between the unfair termination and their actual reinstatement.

As a result, the employer acting in bad faith may also be required to pay additional compensation.

To ensure the validity of termination notices for just cause, certain conditions must be met.

The first written notice must include:

- Specific grounds for termination as outlined in Article 297 of the Labour Code and any relevant company policies.
- A detailed description of the facts and circumstances forming the basis of the charge against the employee.
- A directive allowing the employee at least five (5) calendar days to submit a written explanation. This time is provided for the employee to examine the charge, consult with legal or trade union representation, gather evidence, and decide on their defense.

If the employer determines that termination is justified, they must provide the employee with a second written notice, which includes:

- A statement confirming that all circumstances relating to the charge have been considered.
- Established grounds justifying the dismissal.
- Adhering to these requirements ensures the termination process for just cause is fair and legally compliant.

## Rights and obligations of unemployed persons

Navigating involuntary job loss in the Philippines can be daunting, but understanding the provisions of unemployment financial compensation offers a crucial lifeline for affected employees. Unemployment financial compensation in the Philippines is a monetary benefit provided to eligible employees, which includes kasambahays (domestic workers) and Overseas Filipino Workers (OFWs) both at sea and on land, who are involuntarily separated from their employment. This separation can occur due to various reasons such as retrenchment, downsizing, company closure, installation of labour-saving devices, or redundancy.

To qualify for this benefit, the employee must meet specific criteria: they should not be over 60 years old (or 50 for underground or surface mineworkers, or 55 for racehorse jockeys) at the time of separation. Additionally, the employee must have paid at least 36 monthly contributions to the Social Security System (SSS), with 12 of those contributions made within the 18-month period immediately preceding the month of separation.

If eligible, the employee is entitled to receive an amount equivalent to twice the half of their average monthly salary credit (AMSC). This benefit is provided as a one-time payment, and the claim must be filed within one year from the date of involuntary separation to avail of the compensation.

## Severance pay

Separation pay is reserved exclusively for employees dismissed for reasons beyond their control. If the dismissal is not due to any fault of the employee, they are entitled to receive severance pay to compensate for the loss of work. The severance pay is calculated based on the reason for the dismissal, always opting for the most favorable option for the employee. Severance pay is categorized into two distinct groups:

- Dismissals due to personal illness
- Dismissals on work-related grounds As mentioned before, severance pay, which is defined as separation pay, varies according to the reason for termination.

Dismissal due to illness: Employees dismissed due to illness are entitled to separation pay calculated as follows:

- One month's salary for each year of service with the employer, or
- Half a month's salary for each year of service, up to a maximum of six half-month salaries per year.
- The most advantageous compensation for the employee shall be chosen.

Dismissal on business-related grounds: For dismissals based on business-related reasons, such as company restructuring or redundancy, the separation pay is similarly calculated:

- One month's salary for each year of service with the employer, or
- Half a month's salary for each year of service, up to a maximum of six half-month salaries per year.
- The highest possible compensation shall be provided.

Dismissal due to employee's fault: In cases where dismissal is due to the employee's fault, no separation pay will be granted. Misconduct or other just causes for termination disqualify an employee from receiving severance pay.

## Additional items

### Probationary period

Probationary employees in the Philippines are safeguarded by labour laws against unjust dismissal. Probationary employees are typically employed for a probation period ranging

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from one to six months, which may be extended if the nature of the job necessitates an apprenticeship.

Throughout this probationary period, employees retain fundamental legal protections, including safeguards against unjust termination. They are safeguarded against dismissal for exercising statutory entitlements such as personal leave, pregnancy, or maternity benefits.

Employers are prohibited from discriminating against probationary employees or withholding contractual benefits during the probationary period. An employee engaged on a probationary basis may have their employment terminated if there is a justifiable reason or if they do not meet the criteria to become a regular employee, as established by reasonable standards communicated by the employer at the start of their probationary period. This ensures clarity and transparency in the employment relationship, adhering to established guidelines and fair practices.

If an employer terminates a probationary employee without adhering to clear and lawful requirements, they may face legal repercussions for wrongful dismissal. In such cases, the employee has the right to lodge a complaint with the Department of Labour and Employment (DOLE).

Upon successful completion of probation, employees are entitled to receive standard benefits stipulated by Philippine employment regulations. These provisions ensure fairness and adherence to legal standards in the treatment of probationary staff.

## Intellectual property rights

Under Philippine law, employers generally own the intellectual property rights created by employees in the course of their work, provided that they are related to the employer's business and the employee's assigned duties. Employers should include a comprehensive intellectual property (IP) protection clause in every employment agreement with new hires. This clause should cover:

- Ownership of IP created by the employee.
- Rules for the commercialization of IP.
- Conditions for the transfer of IP ownership.
- Confidentiality agreements for trade secrets and other proprietary information.
- Non-compete agreements.

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- A power of attorney clause.

If the intellectual property created by employees as part of their work is directly related to the business or the employee's job function, employers own that intellectual property.

To ensure clarity and avoid disputes, exceptions to the standard employer-employee intellectual property rules should be clearly written into the employment contract.

Intellectual property protections are only enforceable if there is an employment relationship, so it is important to ensure that contractors are not misclassified. Courts have upheld the enforceability of non-disclosure agreements (NDAs) in the context of an employment relationship. To ensure that a non-disclosure agreement withstands legal scrutiny, it must contain the full names of the consenting parties, a detailed description of the information to be kept confidential, the circumstances under which the NDA is invalid, and provisions for maintaining confidentiality after termination of employment.

Philippine criminal law also provides legal protections for trade secrets. For example, under the Cybercrime Prevention Act, an employer may take criminal action against an employee who accesses information on another's computer without proper authorisation. Unlike other types of intellectual property in the Philippines, trade secrets and similar proprietary information cannot be registered.

## Employee data privacy

The collection and processing of personal information, including employee data, is regulated by the Data Privacy Act of 2012, which is overseen and enforced by the National Privacy Commission. According to the DPA, personal information includes any data that can identify an individual, such as names, addresses, contact details and other sensitive information.

Employers are obliged to comply with the DPA and the Implementing Rules and Regulations (IRR) when using personal information of their employees and job applicants. Failure to comply with the DPA and IRR can result in serious penalties, including fines, imprisonment, or both. Any affected employees or job applicants have the right to file a complaint with the National Privacy Commission (NPC) or seek redress through civil litigation.

It is critical that employers implement appropriate policies and procedures to ensure compliance with data privacy laws and regulations. Regular review and updating of these policies and procedures is necessary to stay current with changes in the law or advances in technology. Employers must obtain voluntary, specific, and informed consent from employees or job applicants before collecting personal information. They must inform individuals about the purpose and scope of the data collection and their rights under the Data Privacy Act (DPA) and its Implementing Rules and Regulations (IRR).

Only necessary and relevant personal information should be collected and kept confidential. Employers must implement appropriate security measures, including physical, technical, and administrative safeguards, to protect against unauthorized access, disclosure, alteration, or destruction of personal data.

It is crucial to limit access to personal information to authorized personnel for legitimate business purposes and ensure robust security measures are in place to comply with the DPA and IRR.

## Restrictive covenants

### Prohibition of competition

Non-compete clauses aim to protect the employer's business interests without unreasonably restricting the employee's ability to find alternative employment. Non-compete clauses in Philippine employment contracts are legally enforceable if they maintain reasonable limits on time, trade, and geographic scope.

They should specify a reasonable duration for the restriction, typically aligned with the employee's role and industry norms. Restrictions on competitive activities should be directly related to the employer's business operations. Geographic limitations should be realistic and tied to areas where the employer has legitimate interests.

Parties have the freedom to negotiate and include such clauses in employment contracts, provided they do not violate public policy, morals, or good customs. Courts may invalidate overly restrictive clauses that unfairly limit an employee's ability to earn a livelihood after leaving the employer. Employers are encouraged to strike a balance between protecting their business interests and respecting employees' rights. Clear communication and mutual agreement on non-compete terms can foster a positive employer-employee relationship while ensuring compliance with legal standards.

Non-compete clauses may include provisions for liquidated damages, which are pre-agreed amounts set by the employer in case of a breach. While employers have the discretion to specify these amounts, courts retain the authority to adjust them during judicial review if they are deemed excessively harsh or unfair given the circumstances of the case. This ensures that the penalties are reasonable and equitable, aligning with principles of fairness and justice under Philippine law.

## Remote working

### Remote working policy

The Telecommuting Act, also known as Republic Act No. 11165 or the “Work From Home” Law, officially establishes telecommuting as a recognised and approved work arrangement for private employees in the Philippines. Section 4 of Republic Act No. 11165 establishes the Remote Work Programme, which allows employees to work remotely from locations other than the usual office or from alternative workplaces. The Ministry of Labour and Employment has issued Implementing Rules and Regulations (IRR) to detail the specifics of the programme.

The law emphasise the need for transparency and openness. Employers must clearly communicate all terms and conditions of the remote working arrangement through relevant written information or similar means and outline the responsibilities of remote workers.

Under the law, participation in the Remote Work Programme is voluntary and requires mutual agreement between the employer and employee. The Telecommuting Act ensures fair treatment for employees opting to work from home, where telecommuting agreements are voluntary and subject to mutual consent between employers and employees. Employers are not mandated to implement telecommuting if it does not align with their company policies and operational requirements.

Remote workers have guaranteed rights:

- Employees are entitled to a compensation and benefits package that is at least equal to what is provided by relevant laws, including overtime pay, night shift differential, and other monetary benefits or collective bargaining agreements.
  - Remote workers must have the same access to rest periods, breaks, and regular and special non-working holidays as their office-based counterparts.
- Workload and Performance Standards: The workload and performance standards for telecommuting employees should be equivalent to those for office-based employees.
- Remote workers should have the same access to training and career development opportunities and undergo similar assessment processes as on-site employees.
  - Employees must receive appropriate training on the use of devices, equipment, and computer technologies relevant to remoteworking.

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- Remote workers should enjoy the same treatment and rights as on-site employees, including communication with workers' representatives.

## Responsibilities within a remote work arrangement

When establishing a remote working agreement, the employer has the responsibility to take appropriate measures in accordance with certain basic principles. Remote work has emerged as a prominent trend, necessitating that employers furnish essential tools and resources for employees working from home. Establishing clear policies is crucial to ensure equitable conditions for remote workers, delineating expectations regarding work hours, communication protocols, performance assessment, and data security measures. Supporting the mental health and well-being of remote employees through accessible resources and mechanisms is essential.

Effective coordination and communication among job-sharing employees are imperative, with performance evaluations and compensation structured according to agreed-upon workload distribution. Despite its challenges, remote work offers a flexible and potentially more productive work environment for employees.

A written remote work agreement is essential, requiring active participation from both parties. Failing to document this agreement properly can lead to financial and reputational risks for employers, potentially resulting in liability for compensation.

Non-compliance may also lead to occupational health and safety concerns, subjecting employers to penalties. Providing remote training opportunities and professional development resources supports ongoing skill enhancement and career advancement.

Establishing clear performance metrics and expectations for remote employees is vital to ensure accountability and maintain productivity levels. Employees must adhere to confidentiality agreements and protect company data while working remotely. Additionally, they should accurately track their work hours, tasks completed, and other pertinent details in accordance with company policies and legal requirements.

## Health and safety at home

Ensuring workplace safety and health extends beyond the office. In remote work, the home is considered an integral part of the workplace, subject to the same rigorous health and safety standards. Employers have a responsibility to protect the health and safety of employees and this responsibility extends to remote working environments.



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This entails evaluating risks, implementing mitigation strategies, and engaging in discussions with employees regarding their work setups. Critical considerations include stress management, mental health support, proper equipment usage, and overall workspace conditions. Employers are obligated to communicate safety protocols, deliver relevant training, perform health monitoring, and enforce occupational safety standards for provided equipment.

Adapting Occupational Health and Safety (OHS) regulations to remote work requires tailored approaches to maintain a secure and healthy work environment for all employees. Employers must carry out comprehensive risk assessments and provide ergonomic support, equipment and resources to ensure a safe and healthy environment for remote worker.

It is crucial that employers disseminate guidance on ergonomic best practices, optimal workspace configuration and mental health support provisions specific to remote workers.

In addition, addressing concerns about workers' compensation and liability coverage for remote work-related injuries or accidents is essential for comprehensive worker protection.