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"You're fired... right now" – How to terminate without notice across Asia

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by Miklos Bolza | 11 Nov 2015



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Terminating an employee without notice can be hard enough for HRDs overseeing a single office. For those with regional responsibilities, the complexities become even more difficult thanks to varying employment laws in each country.

HRD sat down with Caroline Berube, managing partner of HJM Asia Law, to talk about when firms could legally terminate someone without notice in Singapore, Hong Kong and China.

Singapore

The employer can terminate a contract without notice by paying the employee salary in lieu of notice, Berube said; "This is money equivalent to the salary that the employee would have earned during the required notice period."

Reasons for termination without notice include if an employee is absent from work for two consecutive working days without:

- Prior approval
- A good excuse
- Informing the employer
- Attempting to inform the employer

Hong Kong

Termination without notice can occur in Hong Kong for the following reasons, Berube said:

- Serious misconduct
- Fraud or dishonesty
- Habitual neglect of duty

"The valid reasons for standard dismissal are the conduct of the employee, the skills of the employee, redundancy, statutory reasons or other substantial reasons," Berube explained. "In other words, the reasons are flexible."



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It is important to have a valid cause when terminating an employee, she added. "If the employee is employed for at least 24 months and is not dismissed for a valid cause, the employee can claim extra pay or be reinstated."

"In the event employment has lasted less than 24 months, reinstatement is possible but damages are capped to HKD 15,000."

China

In China, conditions for termination without notice are even more varied, said Berube. Reasons permitted include:

- Serious violations of employer's rules and regulations
- Gross negligence in work performance
- Personal interests that prejudice the employer
- A voided contract caused by the employee
- Criminal convictions against the employee

If an employee establishes a relationship with another employer, termination without notice is permitted if the second contract seriously disrupts the first and/or the employee fails to rectify the matter after it is brought to their attention by their first employer.

"The relevant labour union must be informed in writing whenever the employer terminates a labour contract unilaterally," Berube added.

The employer must also provide the employee with a certificate of termination which includes:

- The effective date when the contract is terminated
- The date when the termination occurred
- The position held by the employee
- The total duration of employment

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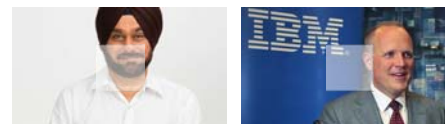
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