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Severance pay across Asia: what's the damage?

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by Miklos Bolza | 19 Nov 2015



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When firing someone, legal requirements for severance pay can be complicated especially for HR professionals overseeing staff in multiple jurisdictions.

HRD talked to Caroline Berube, managing partner of HJM Asia Law, about the legal conditions for severance pay in Singapore, Hong Kong and China.

Singapore

Singapore is actually the easiest country to fire someone in, Berube said, since there is no law forcing a business to offer severance pay to

its employees.

"The only thing the employer needs to do is to serve the termination notice or payment in lieu of notice in accordance with the Employment Act or employment contract," Berube said. "There is no severance pay required."

Hong Kong

In Hong Kong, employees who have worked for a company for at least 24 months need to be paid severance pay if they are laid off, dismissed or their contract is not renewed due to redundancy.

"The severance pay is equivalent to two thirds of the employee's monthly salary multiplied by the number of years of service," Berube said. "However, if the employee's salary is above HKD 22,500 per month, the calculation is HKD 15,000 multiplied by the number of years of service."

In some cases, a long service payment will also have to be made after an employee has been working for a business for five years or more.

Employers who fail to pay a severance payment will be liable to a fine of HKD 50,000. Those who wilfully neglect the payment and who don't have a reasonable excuse will be liable to a fine of HKD 350,000 and up to three years' imprisonment.



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China

By far the hardest country to fire someone in is China, Berube said, because the financial compensation required depends on the circumstances of the termination.

"The employer needs to terminate the employee with statutory cause plus severance pay or terminate the employee without statutory cause plus double severance pay," she explained.

When an employee is fired for valid reasons, the financial compensation will amount to one month salary per year of service. This is based on the worker's average salary over the past twelve months including bonuses, allowances and other monetary benefits.

For employees on higher incomes, calculating the severance pay becomes more complicated, said Berube.

"When the employee's salary is more than three times the local average salary of the previous year as published by the local authority, compensation is based on three times the monthly local average salary instead of the employee's salary."

"In the event that the compensation is subject to this limit, the compensation may only be up to a maximum of twelve months salary – the compensated period is limited to twelve years."

Finally double severance pay is required for termination without just cause, ie for the dismissal of a woman during pregnancy or maternity leave, Berube said.

However, conducting an illegal termination and/or not paying the necessary financial compensation does not result in a criminal commitment in China, she added.

Summary

Country	Severance pay (in local currency)
Singapore	None
Hong Kong (salary under HKD 22,500)	2/3 x (monthly salary) x (years of service)
Hong Kong (salary over HKD 22,500)	15,000 x (years of service)
China (salary less than three times local average & termination with just cause)	(average monthly salary) x (years of service)
China (salary higher than three times local average & termination with just cause)	3 x (average monthly local salary) x (years of service)
China (salary less than three times local average & termination without just cause)	2 x (average monthly salary) x (years of service)
China (salary higher than three times local average & termination without just cause)	2 x 3 x (average monthly local salary) x (years of service)

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