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Future-Proofing HR:

Essential Employment Law Strategies for Hong Kong's Evolving Landscape

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Introduction

In today's fast-evolving work environment, HR and legal teams in Hong Kong are navigating a complex mix of legal risks, workforce expectations, and operational challenges. As the legal, technological and social landscape continues to shift, organizations must adapt their strategies to ensure compliance while remaining competitive in talent acquisition and retention.



Legislative Changes & Case Law

Employment law developments create new compliance obligations, requiring policy and practice adjustments.



Integration of Technology

New technologies like AI and cryptocurrency payments raise novel legal questions regarding privacy, discrimination, and monitoring.



Workplace Diversity

Emerging issues in workplace discrimination and diversity initiatives demand proactive approaches to ensure legal compliance and inclusive cultures.



Restrictive Covenants and Post-Termination Business Protection

Recent court cases have clarified the enforceability of restrictive covenants, and other measures for business protection.

Key Legislative & Policy Changes

Recent Employment Law Developments

MPF Offsetting Mechanism Abolition

(May 1, 2025)

- Eliminates employers' ability to offset severance / long service payments against MPF from 1 May 2025
- Implements 25-year government subsidy program to ease transition for employers
- Maintains existing formula for calculating severance / long service payments
- Requires immediate updates to termination procedures and financial planning

"468 Rule" Replacing "418 Rule"

(January 18, 2026)

- Reduces weekly hour threshold from 18 to 17 hours for statutory benefits eligibility
- Establishes new aggregate requirement of 68 hours over a 4-week period
- Expands coverage of Employment Ordinance protections to more part-time workers
- Necessitates review of part-time employment contracts and benefit structures

Key Legislative & Policy Changes

Recent Immigration Developments

Hong Kong has implemented several strategic immigration reforms designed to attract and retain international talent, positioning the city as a competitive global hub despite regional challenges.

Updated Talent List Expansion

The government has broadened the Talent List to include emerging professions in fintech, biotech, and digital entertainment. This streamlines visa processes for professionals in high-demand sectors crucial to Hong Kong's economic diversification strategy.

Enhanced Top Talent Pass Scheme

The scheme now recognizes graduates from 198 global universities (expanded from 184). It also extends initial visa validity from two to three years for high-income talent, and offers simplified renewal procedures for those demonstrating economic contribution.

Capital Investment Entrant Scheme (CIES)

Relaunched in 2024 after being suspended since 2015, this program attracts high-net-worth individuals who invest a minimum of HK\$30 million in permissible assets. It offers residency pathways to investors contributing to Hong Kong's financial ecosystem.

Workplace Discrimination & Same-Sex Partnerships

Equal Opportunities Initiatives

Recent EOC Initiatives

- **Family-Friendly Employment Practices Study (August 2025)** – Comprehensive research examining the implementation of flexible work arrangements, parental leave policies, and caregiver support across industries, with benchmarking data and best practice recommendations.
- **Guide on Supporting Employees with Mental Health Conditions (July 2025)** – Practical framework for employers to provide reasonable accommodations, create supportive work environments, and navigate disclosure procedures while ensuring legal compliance.

HKEX Board Diversity Requirement Requirement (January 1, 2025)

The Hong Kong Stock Exchange now mandates that all listed companies must have at least one director of a different gender on their boards. This requirement eliminates single-gender boards among issuers and aligns Hong Kong's corporate governance standards with international practices on diversity and inclusion.

Registration of Same-Sex Partnerships Partnerships Bill

This legislation, while limited in scope to addressing "basic social needs," represents a significant development in Hong Kong's recognition of same-sex relationships. The bill acknowledges partnerships registered in other jurisdictions but does not create new employer obligations within Hong Kong. Multinational companies with existing inclusive policies will not need to modify their approaches.

Restrictive Covenants & Business Protection

Legal Framework

For a restrictive covenant to be enforceable in Hong Kong, employers must demonstrate:

- The existence of a legitimate business interest requiring protection
- That the covenant is reasonable in scope, duration, and geographic application
- That the restriction goes no further than necessary to protect that interest
- That enforcement would not be contrary to public interest

Hong Kong courts continue to evaluate restrictive covenants with heightened scrutiny, especially those with broad geographical or temporal scope. The burden remains on employers to demonstrate both the necessity and reasonableness of any post-employment restrictions, with a trend toward narrower, more tailored covenant enforcement.

Restrictive Covenants & Business Protections

Recent Case Law Developments

Manulife Financial Asia Ltd v. Kenneth Joseph Rappold [2024]

The Court of First Instance ruled that a 12-month worldwide non-compete covenant was unenforceable due to its excessive geographical scope. Despite the executive's senior position and access to confidential information, the court held that a restriction without territorial limitations was disproportionate to protecting Manulife's legitimate business interests.

The court emphasized that even for C-suite executives, non-compete provisions must be tailored to specific regions where the employer has demonstrated business presence and competitive interests.

Moxie Communications Ltd v. Lai Cheuk Lok [2024]

The District Court refused to enforce a two-year restrictive covenant against a junior employee who joined a competitor. The court determined that the company failed to demonstrate any legitimate business interest justifying such restrictions given the employee's junior role and limited client relationships.

This ruling reinforces that restrictive covenants must be proportionate to the employee's position and actual ability to harm the business's interests.

Info Salons Technology Services (HK) Limited v Feng Wenguo [2025]

The High Court granted an injunction enforcing 12-month restraints against a former sales director who had joined a competitor. The court found the restrictions reasonable as they were limited to specific client relationships the employee had cultivated while employed.

This case established that protecting relationships with major clients can constitute a legitimate business interest warranting post-employment protection, particularly when the employee played a significant role in developing those relationships.

Conpak Management Consultants Limited v Luk Wai Ting [2024]

The District Court ruled that client contact information did not constitute confidential information warranting post-termination protection. The fatal point to Conpak's claim was its failure to prove that the information it sought to protect was truly confidential in nature.

This case highlights the importance of clearly defining what constitutes confidential information within employment contracts and company policies.

Key Takeaways for Employers

- Tailor restrictions to specific employees based on seniority, role, and access to confidential information
- Ensure geographical restrictions align with actual business footprint and competitive landscape
- Clearly define confidential information and implement robust protection protocols
- Consider the potential for fiduciary duties to extend beyond traditional director roles
- Act promptly when breaches are suspected to avoid implications of acquiescence

Restrictive Covenants & Business Protections

Recent Case Law Developments

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Green Light Multiplex Co Ltd v Lam Shi Yan [2024]

In this significant ruling, the High Court awarded over HK\$2 million to an employer for a former employee's breach of contractual and fiduciary duties. The employee had wrongfully diverted business opportunities while still employed.

The Court emphasized that fiduciary duties may arise not merely from the employment relationship itself, but from specific contractual obligations where the employee has placed themselves in a position requiring them to act solely in the employer's interest. Importantly, the Court determined the employee owed fiduciary duties despite not being a director.

This case expands the traditional understanding of fiduciary obligations in Hong Kong employment law, potentially extending such duties to a broader range of employees in positions of trust.

Key Takeaways for Employers

Position-Specific Restrictions

Design restrictive covenants that are proportionate to the employee's role, seniority, and access to confidential information or key client relationships. Courts consistently reject one-size-fits-all approaches to post-employment restrictions.

Clear Confidentiality Definitions

Explicitly define what constitutes confidential information within employment contracts and company policies. Generic descriptions of confidential information have proven insufficient in recent litigation.

Expanded Fiduciary Duties

Consider the potential for fiduciary duties to extend beyond traditional director roles to employees in positions of significant trust and responsibility, particularly those with client relationship management duties.

Compensation & Termination Issues

Summary Termination

The case of **Hu Yangyong v. Alba Asia Limited [2025]** provides critical guidance on summary dismissal standards in Hong Kong. The court awarded Mr. Hu approximately HK\$5.4 million in damages after determining his summary dismissal was unjustified. This comprehensive award included lost wages, end-of-year payments, private medical insurance, annual leave pay, and expense reimbursements.

Key Legal Principles Established

- **High Threshold:** Summary dismissal is justified only for fundamental contract breaches and should be reserved for exceptional circumstances.
- **Employer's Burden:** The employer bears the burden of proving that summary dismissal is justified based on the employee's conduct.
- **Acquiescence Risk:** Allowing misconduct to continue before taking action may indicate acquiescence, weakening dismissal grounds.
- **Post-Termination Discovery:** Employers may rely on facts discovered after termination to justify summary dismissal.

Frustration Doctrine

In **Stahl Matthew Ian v. Brilliant Jet Limited [2025]**, the High Court clarified that frustration should not be invoked lightly. The court established that frustration requires:

- An unforeseen external event making contract performance impossible or radically different.
- The situation must arise without either party's fault.
- Assessment is fact-sensitive, considering contract terms, parties' expectations, and event nature.

Termination Principles

No Mutual Trust and Confidence

Hong Kong courts have consistently held that the implied duty of mutual trust and confidence does not extend to the employer's right to dismiss. This principle gives employers significant latitude in termination decisions, provided statutory and contractual obligations are met.

Summary Termination

Summary termination remains reserved for fundamental contract breaches. The employer bears the burden of proving that the employee's conduct justified immediate dismissal without notice or payment in lieu.

Compensation & Termination Issues

Discretionary Bonuses & Deferred Compensation

Yang Zhizhong v Nomura [2024]

The court upheld Nomura's decision to deny a discretionary bonus to a former employee. This ruling reinforced that employers retain considerable discretion in bonus allocation decisions, provided they can demonstrate valid business reasons and proper decision-making processes.

The court specifically noted the importance of documented rationales for bonus decisions, particularly when they deviate from previous years or established patterns. Nomura successfully demonstrated that its bonus decision was reached through proper consideration of relevant factors including individual and company performance.

Lo Wai Keung v. Hannover Ruck SE [2024]

This case established that payment in lieu of notice legally constitutes termination without notice, which can affect entitlements under contractual deferred compensation schemes. The court ruled that despite receiving payment in lieu, the employee was not entitled to certain deferred benefits that required a notice period.

The ruling highlights the importance of precise contractual language regarding compensation upon termination, particularly for complex remuneration structures involving deferred elements.

AI in the Workplace: Impact & Management

Key Impact Areas



Recruitment & Hiring

AI-powered recruitment tools present both opportunities and legal risks for Hong Kong employers. While these systems can efficiently screen candidates and identify skills matches, they may perpetuate algorithmic bias. Recent Equal Opportunities Commission guidance emphasizes that employers remain legally responsible for discriminatory outcomes even when using third-party AI tools.

Organizations must implement regular algorithmic audits, maintain human oversight of AI-driven decisions, and ensure transparency in how AI influences candidate assessment.



Employee Monitoring

AI-enhanced monitoring systems raise significant privacy concerns under Hong Kong's Personal Data (Privacy) Ordinance. The Privacy Commissioner has issued specific guidance requiring employers to conduct privacy impact assessments before implementing AI surveillance, maintain data minimization practices, and provide clear notice to employees.

Employers should develop comprehensive monitoring policies that balance legitimate business interests with employee privacy rights, ensuring proportionality in data collection.



Workforce Transformation

AI implementation often triggers significant workforce restructuring, raising legal questions around redundancy processes, reskilling obligations, and potential discrimination claims. Organizations must ensure that AI-driven workforce changes comply with Hong Kong's employment protection legislation.

Proactive approaches include developing comprehensive reskilling programs, implementing transparent communication about technological change, and ensuring fair selection criteria for any resulting redundancies.



Performance Evaluation

AI tools increasingly influence performance management, analyzing productivity metrics, communication patterns, and work output. Hong Kong's employment law framework requires that evaluation methods be fair, transparent, and consistently applied. Organizations must ensure that AI-driven assessments complement rather than replace human judgment.

Best practices include maintaining clear communication about evaluation criteria, providing mechanisms for employees to challenge AI-generated assessments, and ensuring managers understand the limitations of algorithmic performance metrics.

Hong Kong's regulatory framework for AI in employment contexts continues to evolve. Organizations should develop comprehensive AI governance frameworks that incorporate legal compliance, ethical considerations, and human oversight to mitigate risks while leveraging AI's potential benefits.

Cryptocurrency & Compensation

Legal Status of Cryptocurrency Payments

Wages Must Be Paid in Legal Tender

Employment Ordinance Section 26 explicitly requires that wages be paid in "legal tender" of Hong Kong. The Hong Kong Monetary Authority has consistently maintained that cryptocurrencies do not qualify as legal tender under Hong Kong law.

Alternative payment methods require explicit employee consent, creating potential compliance risks for organizations considering cryptocurrency salary payments. Even with consent, the core obligation to pay in legal tender remains, making cryptocurrency-only compensation structures legally problematic.

Bonuses vs. Wages Distinction

The Employment Ordinance draws a critical distinction between "wages" and other forms of compensation such as annual bonuses. Section 2 specifically excludes annual bonuses (whether contractual or discretionary) from the definition of "wages."

This legal distinction creates an opportunity for employers to offer cryptocurrency-based bonus structures while maintaining compliant base salary payments. This approach has gained traction among financial services and technology firms seeking to attract talent with cryptocurrency expertise.

Stablecoins Ordinance (August 2025)

Hong Kong's recently implemented Stablecoins Ordinance establishes a comprehensive framework for licensing and supervision of stablecoins, focusing on issuers maintaining Hong Kong dollar or US dollar reserves backing digital assets.

While this regulatory framework enhances the legitimacy of stablecoins within Hong Kong's financial system, it explicitly does not confer "legal tender" status on these digital assets. This distinction maintains the compliance challenges for cryptocurrency compensation despite the increased regulatory clarity.

Hugill & Ip

Hugill & Ip is a young, independent Hong Kong law firm, established in 2018. Though relatively new in its current form, its partners bring decades of experience providing bespoke legal advice and exceptional client service to businesses in Hong Kong and internationally.



Award-Winning Expertise

The firm's solicitors have achieved outstanding recognition in the most recent editions of international legal guides, including Chambers Asia-Pacific, Legal 500 Asia Pacific, and IFLR1000, particularly for their work in employment law and dispute resolution.



Community Commitment

Beyond commercial practice, Hugill & Ip's team has been recognized multiple times for their pro bono service to the Hong Kong community, partnering with local NGOs and community organizations to provide legal support to underserved populations.



Specialized Practice Areas

The firm specializes in employment law, business protection, dispute resolution, and private client services, offering practical solutions tailored to Hong Kong's unique legal landscape. Their approach combines deep technical knowledge with pragmatic business advice.

With a focus on personalized service and sector-specific expertise, Hugill & Ip provides clients with responsive, practical guidance that addresses both immediate legal concerns and long-term business objectives in Hong Kong's evolving regulatory environment.

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"Hugill & Ip's employment team is highly regarded for its deep understanding of complex labour issues and its ability to provide clear, actionable advice."

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