

## Ministry of Labor issues rules for the execution of employment contracts

*Notification No. 1/2015 seeks to implement the employment contract provisions of the Employment and Skills Development Law of 2013*

The Ministry of Labor, Employment and Social Security (“MELS”) issued Notification No. 1/2015 (the “**Notification**”) implementing the contract execution provisions of the Employment and Skill Development Law of 2013 (“ESDL”). The Notification, effective from 1 September 2015, specifically mandates:

- (1) the execution of an employment contract within 30 days from the date of the appointment of the employee;
- (2) the mandatory use of a template employment contract; and
- (3) the use of a salary record book through which the salaries of employees are paid by the employer.

While the imposition of terms in a prescribed employment contract is not specially provided in the ESDL (as it only enumerates the general subjects that are required to be covered in employment contracts), the Notification supplements the ESDL by prescribing an actual template agreement whose terms are to be reflected in employment contracts to be signed between all employers and employees. No English version has been officially issued. Although the prescribed employment contract attempts to comprehensively cover all terms required in an employer-employee relationship, deviations from the prescribed employment contract may still be necessary to conform to peculiarities in the employer-employee relationship and to satisfy the requirements of other applicable laws. The Notification, however, does not clearly state if such deviations will be allowed.

The issuance of the Notification suggests that the MELS intends to strictly enforce the contract execution provisions of the ESDL and it will monitor compliance with both the 30-day execution requirement and the content requirement as set forth in the prescribed employment contract through the mandatory presentation and approval of all employment contracts to the relevant township labor office.

Failure to satisfy the 30-day execution period is punished under the ESDL with a penalty of imprisonment for a maximum period of 6 months or a fine or both. Meanwhile, the failure to comply with the terms and conditions of an employment contract (which may include the failure to include the relevant terms and conditions in the MELS’ prescribed employment contract) is subject to a penalty of imprisonment for a maximum of 3 months, or a fine, or both. Employers, therefore, must be vigilant in ensuring that in the engagement of their employees, their contracts include and provide for the mandatory terms found in the prescribed employment contract, and that such contracts are executed in the manner and within the periods required by the Notification and the ESDL.

**For more information, please contact:**

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