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### **Social Security for Foreign Workers**

Employees' Social Security (Exemption of Foreign Workers) (Revocation) Notification 2018

Employees' Social Security (Exemption) Notification 2018

Employees' Social Security (Exemption) (No 2) Notification 2018

The Employees' Social Security Act 1969<sup>[1]</sup> provides for the establishment of a social security fund to protect an employee and/or his dependents in the event of injury, illness or death.

Since 1.4.1993, foreign workers had been exempted<sup>[2]</sup> from the operation of the Act except non-citizens who are permanent residents in Malaysia. The Notification did not define the term "foreign worker".

With effect from 1.1.2019, that exemption was removed<sup>[3]</sup> and the Act now applies to all foreign workers. According to the information provided in the Frequently Asked Questions,<sup>[4]</sup> the term "foreign worker" includes expatriates and excludes domestic servants.

However, certain foreign workers are exempted under the following circumstances:

- (a) Any foreign worker who works or has worked in Malaysia without a valid pass or permit, but subsequently obtains a valid pass or permit after 1.1.2019, is exempted<sup>[5]</sup> for any period before the date of issuance of the valid pass or permit.
- (b) Any foreign worker who is currently covered under an insurance policy issued for the purpose of the Foreign Workers' Compensation Scheme<sup>[6]</sup> will be exempted<sup>[7]</sup> until the expiry of such policy or 31.12.2019, whichever is earlier.

Pursuant to these changes, SOCSO<sup>[8]</sup> has issued a circular<sup>[9]</sup> setting out the registration procedure, submission of contribution records, payment of contribution and processing of benefit claims for foreign workers. The circular states that foreign workers who come within the

operation of the Act must possess valid working permits or equivalent documents<sup>[10]</sup> in order to be eligible to be registered with SOCSO and they will be covered under the Employment Injury Scheme only. Employers need only make contributions to the scheme based on the rates accompanying the circular.

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- [1] [Act 4]
- [2] By the Employees' Social Security (Exemption of Foreign Workers) Notification 1993: PU(A) 56/1993
- [3] By the Employees' Social Security (Exemption of Foreign Workers) (Revocation) Notification 2018: PU(B) 735/2018
- [4] "Frequently Asked Questions on the Transfer of the Foreign Workers Compensation Scheme (FWCS) from the Department of Labour (JTK) to Social Security Organisation's (SOCSO) Employment Injury (EI) Scheme" issued by SOCSO.
- [5] By the Employees' Social Security (Exemption) Notification 2018: PU(B) 738/2018
- [6] Under the Workmen's Compensation (Foreign Workers' Compensation Scheme) (Insurance) Order 2005: PU(A) 45/2005 read with the Workmen's Compensation (Foreign Workers' Compensation Scheme) (Insurance) (Revocation) Order 2018: PU(A) 350/2018, with effect from 1.1.2019
- [7] By the Employees' Social Security (Exemption) (No 2) Notification 2018: PU(B) 737/2018
- [8] Social Security Organisation
- [9] Employer's Circular No 3 Year 2018, with effect from 1.1.2019.
- [10] Issued by the Immigration Department of Malaysia