STRENGTHENING WORKER PROTECTION AND EMPLOYER READINESS: AN OVERVIEW OF THE PROPOSED AMENDMENTS TO MALAYSIA'S LABOUR LEGISLATION

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The proposals unveiled at the Konvensyen Perburuhan 2026 represent the next phase of Malaysia's labour-law reform. They range from increased annual leave and stronger forced-labour protection to new powers over worker accommodation, industrial disputes and trade-union governance. Their common objective is a fairer, more transparent and inclusive labour framework. Yet, the proposals do not all operate in the same direction. Some enlarge employee rights, while others increase administrative or employer discretion. The strength of the eventual legislation will therefore depend on the safeguards that accompany those powers.

On 18 June 2026, the Ministry of Human Resources (KESUMA) convened the Konvensyen Perburuhan 2026 at Wyndham Acmar Klang. Held under the theme *"Pemerkasaan Undang-Undang Perburuhan: Mengimbangi Kebajikan Pekerja dan Kepentingan Majikan"*, the convention was jointly organised by the Department of Labour Peninsular Malaysia (JTKSM), the Department of Industrial Relations Malaysia (JPPM), the Department of Trade Union Affairs (JHEKS) and the Industrial Court of Malaysia. It brought together key labour stakeholders to consider developments in Malaysia's employment and industrial-relations framework, including reforms affecting the Employment Act 1955 (Act 265), the Employees' Minimum Standards of Housing, Accommodations and Amenities Act 1990 (Act 446), the Industrial Relations Act 1967 (Act 177) and the Trade Unions Act 1959 (Act 262). At the time of writing, these reforms remain proposals presented for consideration at the convention and have not been tabled in Parliament as Bills. Their final scope, implementation timeline and commencement will therefore depend on the legislative process.

Together, these statutes regulate individual employment rights, migrant-worker accommodation, collective labour relations and trade-union administration. Reforming them as a package reflects the reality that worker protection depends not only on the content of contractual rights, but also on effective enforcement and collective representation. It also signals an effort to align individual employment standards, accommodation requirements and collective labour relations within a more coherent regulatory framework.

The reform agenda builds on the 2022 amendments to the Employment Act. Those amendments came into force on 1 January 2023 and expanded coverage to all private-sector employees, introduced seven days of paternity leave and flexible-work applications, reduced weekly working hours to 45 hours and created express provisions on discrimination and forced labour. The 2026 proposed reform exercise may therefore be viewed as the next phase: closing gaps revealed during implementation, strengthening remedies and modernising the administration and enforcement of labour standards.

Employment Act 1955: Stronger Entitlements And Enforcement Leave And Minimum Employment Standards

The most immediately visible proposal is the increase in statutory annual leave. Section 60E presently provides eight days for employees with less than two years' service, 12 days for service of two to less than five years, and 16 days for service of five years or more. The proposed entitlements are 12, 16 and 20 days respectively. This is consistent with Article 3(3) of the ILO Holidays with Pay Convention (Revised), 1970 (No. 132), which sets a minimum benchmark of three working weeks for one year of service. It is also long overdue: the Section 60E entitlements have not been revised since 1980. If enacted, the increase would require employers operating at the statutory minimum to revise handbooks and contracts, adjust leave provisioning and plan for higher accrued-leave liabilities.

Related amendments would prevent rest days and annual leave from running concurrently with paternity leave. More importantly, employers would be expressly prohibited from compelling employees to use annual leave. An express prohibition would give statutory force to the principle that annual leave is an employee entitlement rather than a device through which an employer transfers the cost of a temporary closure to its workforce. Employers would need to distinguish carefully between compulsory annual leave, an agreed collective shutdown, contractual shutdown leave and separately paid closure days.

The proposed repeal of Section 58A would also prevent pre-existing collective agreements from operating below the minimum benefits in Part XII of the Act. This would reinforce the statutory floor and align the Employment Act with the principle in Section 14(3) of the Industrial Relations Act that less favourable collective-agreement terms yield to written law.

Foreign Workers, Forced Labour And Access To Remedies

Section 60K already requires an employer to obtain the Director General's prior approval before employing a foreign employee. Existing approval conditions take account of outstanding orders and convictions under the Employment Act and other labour legislation. The proposals would expressly add compliance with Act 446, the Children and Young Persons (Employment) Act 1966 (Act 350) and the National Wages Consultative Council Act 2011 (Act 732) as approval criteria. They would also allow the Director General to prescribe the validity period of an approval and revoke it, including where false information has been supplied. This would turn prior approval into a more continuous compliance mechanism, with potentially serious workforce and operational consequences for non-compliant employers.

The proposed clarification of Section 90B is equally important. Malaysia ratified the 2014 Protocol to the ILO Forced Labour Convention in March 2022. Section 90B currently criminalises conduct where an employer threatens, deceives or forces an employee to work and prevents that employee from leaving the relevant place or area. The proposal would specify that retaining an employee's passport falls within the element of preventing the employee from proceeding beyond that place or area. This gives statutory recognition to passport retention as a form of movement restriction, and reinforces the worker's right to move freely. The eventual wording should preserve genuinely voluntary and time-limited arrangements for administrative purposes, while making clear that an employee must retain effective control over the document and be able to retrieve it immediately.

Other proposals strengthen the remedial framework. The presumption as to who is an employee or employer under Section 101C would extend beyond prosecutions to other proceedings under the Act, including Labour Court claims. A six-year limitation period would be introduced for labour claims, discrimination disputes and sexual-harassment complaints. Courts could impose imprisonment of up to two years for non-compliance with Labour Court orders, while the Director General could certify an unpaid order to the Director General of Immigration to restrict a defaulting employer from leaving Malaysia. Section 83, which currently regulates the service of summonses, warrants and orders between Malaysia and Singapore, would be broadened to allow the Minister to make reciprocal arrangements with other worker source countries, supporting cross-border enforcement in an increasingly international workforce. These measures may improve enforcement, but travel restrictions and penal consequences should be accompanied by notice, an opportunity to be heard and clear avenues to challenge or discharge the restriction once payment is made.

Flexible Work And Employment Discrimination

The package also contains reforms that require closer scrutiny. Sections 60P and 60Q currently permit an employee to apply to vary the hours, days or place of work. An employer must respond within 60 days and state reasons for a refusal. The proposal would allow an employer to withdraw an approved arrangement where there is a business need. Although operational flexibility is legitimate, an unrestricted revocation power could weaken the practical value of the right to request flexible work. In order to maintain the integrity of the right, safeguards such as reasonable notice, written reasons, consultation and protection against retaliation would be important—particularly where the arrangement supports disability, pregnancy or caregiving responsibilities.

The proposed definition of 'discrimination in employment' would confine the term to discrimination in the form of cash payments. This is intended to address the difficulty faced by hearing officers under the present broad wording of Section 69F. However, if drafted as an exhaustive definition, it could narrow a jurisdiction which currently extends to any dispute concerning a matter relating to discrimination in employment. Non-monetary discrimination may arise in recruitment, promotion, training, deployment, discipline or termination. A key question for the eventual Bill will be whether the definition is intended to delimit the Labour Court's monetary remedial jurisdiction or to exclude those wider forms of discrimination altogether. If the latter, significant discriminatory conduct could be left without an accessible statutory remedy.

Sexual-Harassment Investigations And Modernised Administration

Proposed Employment (Investigation of Sexual Harassment Complaints) Regulations would prescribe the procedure for an employer's inquiry under Section 81D. The procedure would include notice of the date, time and place of inquiry; attendance by persons with relevant knowledge; a closed inquiry; a reasoned written decision within 30 days of the complaint; retention of records for six years; and an appeal to the Director General. This would address an important procedural gap. Employers would require a written protocol, trained and impartial investigators, confidentiality controls and measures against victimisation. The internal process should also be coordinated with the separate remedy available through the Anti-Sexual Harassment Tribunal established under the Anti-Sexual Harassment Act 2022.

Other amendments would recognise electronic employee registers, simplify the submission of employee returns, establish a procedure for sums due to a deceased employee and update the Employment (Part-Time Employees) Regulations 2010. The part-time regulations would be aligned with the 45-hour statutory work week, cap daily working hours at eight (inclusive of overtime), extend paid public holidays from seven to eight days a year and make Malaysia Day a compulsory public holiday. These changes may be less prominent, but they are important to day-to-day compliance. The proposed provision that an employee is not entitled to wages for a period of absence will need to be drafted consistently with existing statutory leave, authorised absence, suspension and wage-calculation provisions to avoid unintentionally displacing more specific protections.

Act 446: From Minimum Standards To Immediate Remediation

Act 446 governs employee housing, accommodation and amenities in Peninsular Malaysia and Labuan. Its estate provisions address housing and health facilities, while Part IIIA regulates accommodation for employees in other sectors. The proposed amendments would clarify this division and bring centralised accommodation more consistently within the statutory definitions and reporting framework.

The principal shift is from certification and prosecution towards corrective intervention. The Director General would be empowered to cancel accommodation certificates; order accommodation or facilities to be replaced, altered or repaired; require temporary accommodation while work is undertaken; and direct that transport to and from the workplace be provided. The employer or centralised accommodation provider would bear the resulting cost and could not recover it from workers through wage deductions. These powers adapt measures used during the COVID-19 emergency into a permanent framework. They protect workers during the period between detection of a breach and final enforcement, when unsafe accommodation may otherwise remain occupied.

The proposals also expand duties concerning the containment, rather than mere reporting, of infectious disease; permit inspection of workplaces or other premises suspected of being used as employee accommodation; extend penalties to breaches of written directions; modernise estate-housing construction standards; and require estate workers to receive basic items such as a bed, mattress, pillow, blanket and lockable cupboard on the same basis as workers in other sectors. Section 24H would be clarified to confirm that employee accommodation must comply with any applicable written law and is not confined to local-authority by-laws, a change directed at accommodation situated outside local-authority jurisdiction such as offshore fish farms or forestry sites. Employers using third-party accommodation should therefore reconsider any assumption that outsourcing transfers statutory risk. Contracts with providers should allocate responsibility for certification, occupancy reporting, inspection access, rectification, temporary rehousing, transport and indemnities.

A proposed ministerial exemption would remove the accommodation-certificate requirement for forestry and fisheries operations outside local-authority control. This may address genuine practical constraints and food-security concerns. Nevertheless, remoteness may heighten rather than reduce worker vulnerability. The effectiveness of any such exemption will depend on whether substantive minimum standards, reporting duties and inspection powers are preserved, or whether certification is replaced with an alternative sector-specific verification mechanism.

Industrial Relations: Earlier Resolution, With Access Safeguards

The Industrial Relations Act was substantially amended through changes brought into force in phases on 1 January 2021 and 15 September 2024. The 2026 proposals concern trade-union capacity and eligibility, secret ballots, multiple unions and sole bargaining rights, management prerogatives during collective bargaining, remedial powers under Section 8, the Section 20 representation process, application to statutory-body employees, prosecution for non-compliance and consistent terminology. Their ultimate effect will depend on precise drafting and the safeguards governing the exercise of the relevant powers.

The proposed Labour Dispute Prevention and Resolution System (LDPRS) and stronger internal grievance procedures reflect JPPM's stated aim of resolving more disputes at the workplace before they escalate to formal proceedings. Effective internal procedures can resolve disputes closer to the workplace, preserve employment relationships and reduce legal cost. They should not, however, become an inflexible exhaustion requirement that causes an employee to miss a statutory filing deadline. Much will depend on whether any new Director General discretion over Section 20 representations is governed by published criteria, reasoned decisions and a mechanism for reviewing procedural unfairness.

Trade-Union Governance: Regulation Without Undue Interference

The reforms to the Trade Unions Act have two strands. The first is procedural: filing fees would be standardised to reflect the RM10 minimum stamp-duty rate that took effect on 1 January 2025 and would replace a fee structure last revised in 1989. The second is more substantive and would restore or clarify powers of the Director General of Trade Unions following the 2024 commencement of the Trade Unions (Amendment) Act 2024.

The proposed powers include directing changes to a union's organisational structure; ordering a fresh annual general meeting or election where rules have been breached; investigating a substantiated complaint without being barred by domestic-remedy requirements; setting administrative eligibility criteria before approving an expanded membership scope; requiring a consolidated rule book; investigating and rejecting an invalid notice of change of officers; and imposing intermediate administrative measures such as compliance notices or limited suspension instead of prosecution or cancellation. The stated rationale is to provide a faster corrective middle ground for governance failures.

The need for credible union governance is substantial. Malaysia's trade unions represent a significant workforce, and their members are entitled to expect valid elections, transparent rules and reliable financial administration. At the same time, powers over elections, leadership, membership scope and internal complaints engage the autonomy of unions to organise their own affairs. Malaysia has ratified the ILO Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and its industrial-relations framework continues to receive international supervisory attention.

The eventual legislation will need to balance effective oversight with safeguards against overreach: objective grounds for intervention, prior notice and an opportunity to be heard, written reasons, proportionate sanctions and effective review. Caretaker control or suspension should be time-limited, with the least intrusive effective remedy preferred. Such safeguards would allow the regulator to protect members from serious governance failures without converting administrative oversight into routine interference with legitimate union activity.

Practical Implications For Employers And Workers

For employers, the reform package points towards a broader conception of labour compliance. It will not be enough to pay wages and observe contractual terms. Foreign-worker approvals, accommodation standards, internal investigations, grievance systems and compliance with administrative directions may become increasingly interconnected. Employers should be prepared to review annual-leave and shutdown practices; insert fair review mechanisms into flexible-work policies; prohibit passport retention; audit labour-supply chains and accommodation providers; preserve reliable digital records; and train managers who handle discrimination, sexual-harassment and grievance complaints.

For workers, the package promises higher minimum leave, clearer forced-labour protection, safer accommodation and more structured complaint mechanisms. Extending the employee-employer presumption may also assist workers whose arrangements are undocumented or deliberately obscured. Yet, those benefits will depend on accessible procedures, timely enforcement and protection against retaliation. Workers and unions should also anticipate greater documentary and governance obligations, particularly where remedies must first be pursued internally.

Conclusion

The Konvensyen Perburuhan 2026 reform agenda reflects an important shift from announcing rights to making them effective. Higher leave entitlements, passport-retention protection, corrective accommodation orders and structured investigation procedures can materially improve working conditions. For employers, the message is clear: compliance will no longer be a static, back-office exercise. The reforms demand that employers move from reactive observance to active stewardship—anticipating regulatory expectations, embedding compliance into operational systems and treating labour governance as a continuous obligation rather than a periodic audit item. Stronger enforcement also means greater discretion in the hands of regulators, and employers who have not prepared risk exposure not only to penalties but to reputational consequences in an increasingly transparent regulatory environment. The flexible-work, discrimination, Section 20 and trade-union proposals underscore why employers must engage early with the legislative process, invest in internal capability and advocate for clear statutory limits and procedural safeguards that enable genuine compliance.

Ultimately, stronger worker protection is not measured solely by the number of new offences or the severity of penalties. It depends on whether the law states rights clearly, provides proportionate and accessible remedies, supports compliance before harm occurs and preserves fair participation by all stakeholders. Employers who begin preparing now—reviewing leave policies, auditing accommodation and supply-chain arrangements, strengthening grievance and investigation protocols and training front-line managers—will be best positioned to meet the heightened expectations these reforms bring. If the elements of clarity, proportionality and accessibility are carried through into the eventual Bills, the proposed reforms could provide a more coherent and credible foundation for Malaysia's next phase of labour regulation—and employers who have invested in readiness will be its most effective partners in implementation.

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