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WHAT YOU SHOULD KNOW

LABOUR ISSUES I THE ACT OF GOD

In Macau, there is no justification for a situation of an “Act of God” for dismissal or for undermining the worker’s rights, mostly because God would not allow it. There is, however, compromise.

Lately, we have been asked by both employers and employees on how to handle this unprecedented and challenging situation as a result of the pandemic, which has affected many areas of our lives, including employment. The commitment is to keep the job, which is the main concern of both parties, especially small and medium-sized companies struggling to keep their businesses running and to keep the jobs of their employees without resorting to dismissal. How can these concerns be addressed in a reasonable fashion, facing the difficulties ahead? This is where compromise comes in. One of the options that has been more often discussed is regarding salary reduction and its terms and conditions. In fact, employers and Macau resident employees may agree on the reduction of salary which is allowed by Macau Labor Relations Law (Law 7/2008) on number 5 of article 59. This reduction of salary has to be agreed between both parties in a written document, and in order to be effective has to be communicated to the Macau Labor Department (DSAL).

Regarding Macau non-resident workers, the same process is taken but with the additional step of requiring the Department's previous approval before the written agreement may be given effect.

Companies have also proposed to their workers leave without pay. This option has been used in some cases, but it is only accepted by law after an agreement between the parties.

The way Macau Labor Law allows this is through the justified absences of the worker, as the employer may accept justified absences and at the same time deduct those absences from the employee’s remuneration, as ruled under article 50, number 2, paragraph 9, article 53, number 1 and article 64, paragraph 6 of Macau Labor Relations Law.

Facing this reality, employees can cooperate with the reduction of their personal expenses while employers suffer a reduction in their revenue. Daily life has become a hardship; this is where the Macau Government plays a key role in promoting social responsibility, by providing economic help to both workers and employers in these unprecedented times through the recently launched Specific Fund to Support the Fight against the epidemic, of which a detailed explanation has already been published by C&C on our April 13th edition.

Although it is not the ideal solution, it is an important strategy for the common good, to keep businesses and jobs reasonably safe, and the cooperation from all parties involved – employer, employee and Government – is important.

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