

COVID-19 Labor Law FAQ for Employers in Mainland Southeast Asia

The COVID-19 pandemic has led to shutdowns, lockdowns, and quarantines around the world, forcing companies into drastic cost-cutting measures to offset severely diminished (or zero) revenue due to a lack of production or a lack of consumers. While certain types of expenses, like fuel and electricity, may be automatically reduced with a lack of activity, other costs like rent and insurance remain stubbornly constant. Notably, labor costs—the single biggest expense for many companies—are typically negotiated in advance, and are fixed to a high degree, leading to the unproductive situation where some workers at closed business are unable to work, but must still be paid. Even in companies that can effectively transition to a work-from-home model, roles requiring a physical presence, like drivers, cleaners, and security guards, are likely to be under-utilized.

As a result, companies have been scrambling to find legal, effective, and humane options to reduce their labor-related expenses while minimizing the impact to their employees. These options may include—where allowed—reduced working hours, forced leave, furloughs, or layoffs. The table below summarizes the options available to employers in Cambodia, Laos, Myanmar, Thailand, and Vietnam in Q&A form (a green cell is a “yes”, a red cell is a “no”, and a yellow cell is a mix of both), and is followed (in the attached PDF) by a comparative analysis of each answer in more detail.

QUESTIONS	CAMBODIA	LAOS	MYANMAR	THAILAND	VIETNAM
1. Can an employer unilaterally reduce salaries?	●	●	●	●	●
2. Can an employer unilaterally reduce working hours, with pay reduced accordingly?	●	●	●	●	●
3. Can an employer furlough employees (require them to take leave without pay)?	●	●	●	●	●
4. Can an employer offer an incentive for employees to resign or retire early?	●	●	●	●	●
5. Can an employer unilaterally require employees to take annual (paid) leave?	●	●	●	●	●
6. Can an employer unilaterally reduce employee benefits?	●	●	●	●	●
7. Can an employer lay off employees due to economic hardship, <i>force majeure</i> , or declaration of a pandemic?	●	●	●	●	●
8. Can a layoff be implemented without first consulting with the company trade union or other government authority?	●	●	●	●	●
9. Has your country set forth relief packages for laid off employees?	●	●	●	●	●
10. Will laid-off or furloughed workers be eligible for unemployment insurance?	●	●	●	●	●

1. Can an employer unilaterally reduce employees' salaries, or is consent required?

Cambodia	An employer cannot unilaterally reduce salaries without the employees' consent.	✗
Laos	Usually, an employer cannot unilaterally reduce salaries without the employees' consent. Under exceptional circumstances, such as a temporary suspension of business, the employer should pay employees at least 50% of their salaries for the duration of the suspension.	○
Myanmar	An employer cannot unilaterally reduce salaries without the employees' consent.	✗
Thailand	An employer cannot unilaterally reduce salaries without the employees' consent. A limited exception exists where employers must temporarily cease operations, subject to various requirements. If the requirements are met, pay can be reduced to 75% of usual salary during the cessation.	○
Vietnam	An employer cannot unilaterally reduce salaries without the employees' consent, and any reduction must be applied evenly across all employees.	✗

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2. Can an employer unilaterally reduce working hours or institute a four-day work week (with pay reduced accordingly)?		
Cambodia	Any change in working hours that results in reduced pay requires employee consent.	✗
Laos	Any change in working hours that results in reduced pay requires employee consent.	✗
Myanmar	Any change in working hours that results in reduced pay requires employee consent.	✗
Thailand	Any change in working hours that results in reduced pay requires employee consent.	✗
Vietnam	Any change in working hours that results in reduced pay requires employee consent.	✗

3. Can an employer unilaterally furlough employees (indefinite or definite-term leave without pay)?		
Cambodia	<p>An employer can suspend an employment contract without the employee’s consent—akin to a furlough—on the basis of serious economic or material difficulty or <i>force majeure</i>.</p> <p><i>Serious economic or material difficulty (suspension of up to two months):</i> The employer must prove certain criteria were met, and obtain the approval of the labor inspector of the Ministry of Labor and Vocational Training (MLVT) before suspending any employees.</p> <p><i>Force majeure (suspension of up to three months):</i> Neither the Labor Law nor the Civil Code defines what constitutes a <i>force majeure</i> event under Cambodian law. We recommend that employers seeking to suspend employees on this basis document how COVID-19 is impacting their businesses, in case the employees later challenge the suspension.</p>	✓
Laos	<p>An employer cannot furlough employees without the employees’ consent.</p> <p>If the employment contract itself has a specific provision for suspension under such circumstances, suspension might be possible, but we recommend seeking an opinion from the local authorities before doing so.</p>	○
Myanmar	An employer cannot furlough employees without the employees’ consent.	✗
Thailand	An employer cannot furlough employees without the employees’ consent.	✗
Vietnam	An employer cannot furlough employees without the employees’ consent.	✗

4. Can an employer offer an incentive for employees to resign or retire early?		
Cambodia	Yes. So long as the employee has the option to accept or reject the offer, the incentive would not contravene Cambodian law and would not be deemed a forced resignation, which would be treated in the same manner as a termination.	✓
Laos	Yes, the employer can offer an incentive for employees to resign earlier, under a mutual consent agreement. If the termination is made unilaterally by the employer, however, advance notice (30–45 days), severance payment, and other benefits as provided in the employment contract will be due.	✓
Myanmar	Yes. This would be a matter of negotiation between the employer and individual employees.	✓
Thailand	Yes. This would be a matter of negotiation between the employer and individual employees. However, retirement is regarded as “termination without cause,” and would require statutory severance and any other payments due upon termination.	✓
Vietnam	Yes. This would be a matter of negotiation between the employer and individual employees.	✓

5. Can employees be required to take annual leave (paid leave)?		
Cambodia	The Labor Law is silent in this regard. In general, employers have a certain amount of discretion in arranging and approving annual leave so that an employee’s leave does not affect business operations. However, given the ambiguity on this point, we recommend obtaining employee consent under the general contractual principles of Cambodia’s Civil Code.	○
Laos	The Law on Labor provides flexibility for the employer to arrange annual leave in advance, in order to not disrupt business operations. The law does not provide guidance on the requirements for doing so. Otherwise, annual leave must be mutually agreed upon between the employer and the employees.	○
Myanmar	No. Annual leave (earned leave) is an entitlement of the employee to take in accordance with the terms and conditions of the contract of employment.	✗
Thailand	<p>Annual leave can be fixed in advance by the employer, or fixed as agreed by the employer and the employees.</p> <p>Before fixing specific leave dates for its employees, an employer should review its work rules, policies, and past practices, in order to verify that no provisions prohibit it from doing so.</p>	○
Vietnam	By law, an employer has the right to determine a schedule for annual leave, but it must first consult with the employees, and employees must be notified of the schedule in advance. While not clearly specified in the law, the implication is that the employer must also obtain the employees’ consent before the scheduled annual leave is imposed.	✗

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6. Can an employer unilaterally reduce employee benefits?

Cambodia	An employer may be able to reduce employee benefits unilaterally if the benefits are not set out in an employment contract or other binding agreement, and the reduction or elimination of the benefit does not fall below the minimum protections required by law. However, if the benefits are a contractual term in an employment contract or other binding agreement, employee consent would be required.	○
Laos	If the employee benefits are set out in the employment contract, the employer is not allowed to unilaterally reduce them, and consent from the employee would be required. Otherwise, the employer and the employee must refer to the terms of the side agreement framing the benefits. Benefits provided voluntarily by the employer to the employee, if they are not framed under the employment contract or other side agreement, may be unilaterally reduced.	○
Myanmar	An employer cannot reduce benefits without employee consent.	✗
Thailand	An employer cannot reduce benefits without employee consent.	✗
Vietnam	An employer cannot reduce employee benefits unilaterally unless the benefits are not stated in the labor contract or collective labor agreement, but are provided in separate policies of the employer which specifically provide that the employer may withdraw or reduce the benefits at its sole discretion. Otherwise, employee consent is required.	○

7. Can an employer make layoffs as part of a corporate restructuring due to economic hardship, *force majeure* events, or the government's declaration of a pandemic?

Cambodia	Yes. Under the Labor Law, an employer is expressly permitted to lay off employees due to a reduction in business activity or an internal reorganization. In order to do so, an employer must follow the specific procedures set out in the Labor Law, which include determining the order of the employees to be laid off.	✓
Laos	An employer may terminate an employment contract for "business reasons," which include instances where economic conditions render it necessary to reduce the number of employees. The employer must follow procedural obligations involving consultation, advance notice, and severance payment.	✓
Myanmar	An employer can lay off employees only by giving one month's prior notice and respective severance payments, whatever the circumstances.	✓
Thailand	Yes. However, if the employer terminates its employees due to the impact of the COVID-19 pandemic, the termination would be regarded as "termination without cause." When terminating employees without cause, the employer is obligated to make statutory severance pay and any other payments due upon termination of employment.	✓
Vietnam	Yes, provided the employer completes the necessary requirements described in answer 8 below.	✓

8. Can an employer implement the foregoing layoff without first consulting with or getting the consent of the company trade union (if any) or other government authority?

Cambodia	No. The employer must inform the workers' representatives (i.e., shop stewards) in writing to solicit suggestions on the measures for a prior announcement of the reduction in staff and the measures taken to minimize the effects on the impacted workers. MLVT labor inspectors must be kept informed of the layoff procedure. At the request of the workers' representatives, the labor inspector can call the relevant parties together to scrutinize the effect of the proposed layoffs and measures to minimize their effects. In exceptional cases, the minister in charge of labor can issue an order to suspend the layoff for up to 30 days to help the parties find a solution. This suspension may be repeated only once.	✗
Laos	No. The employer must first consult the trade union, the employees' representative, or the majority of the employees, in order to explain the reasons for the termination. Minutes of this meeting must be taken and signed by all attendees, and reported to the Labor Administration Authority. However, the Labor Law provides that this should be a notification only. Therefore, no consent—so to speak—is required from the Lao Administration Authority prior to implementation.	✗
Myanmar	Yes. There is no prior consultation or consent requirement.	✓
Thailand	This depends on whether the employer is subject to a Collective Bargaining Agreement.	○
Vietnam	No. If two or more employees are laid off, the employer must consult with the grassroots trade union set up within the employer's organization, or the trade union federation of the district where employer is located if there is no grassroots trade union, to formulate and implement a "labor usage plan" for the restructuring. The employer must also notify the provincial labor authority of the employees' termination at least 30 days in advance.	✗

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9. Has your country set forth any economic stimulus or relief packages whereby employees laid off may receive government assistance? Is this assistance in addition to unemployment benefits?		
Cambodia	<p>In February, the MLVT issued a regulation for the textile, garment, and footwear sectors requiring employers affected by COVID-19 to pay 40% of the wages of suspended employees, while the government would pay 20% of the USD 190 minimum wage.</p> <p>In April, the government changed the above allowances so that employees in the textile, garment, and footwear, and travel goods and bag sectors, and workers in the tourism sector in Phnom Penh, Siem Reap, Preah Sihanouk, Kep, and Kampot provinces, can benefit from the following:</p> <ul style="list-style-type: none"> • Suspended employees in the textile, garment, and footwear sectors will receive a flat payment of USD 70, with the government paying up to USD 40 and employers paying up to USD 30. • Suspended employees in the tourism sector will receive a flat payment of USD 40 from the government and employers can pay any amount of wages on a voluntary basis, based on the employer's actual financial position. <p>There are no unemployment benefits in Cambodia.</p>	✓
Laos	No. To date the government has only provided tax relief on personal income tax.	✗
Myanmar	<p>The government has announced a MMK 100 billion (about USD 70 million) stimulus package to provide loans with 1% interest to highly affected businesses—especially SMEs, the garment sector, and hotel and tourism businesses. The loans are intended to help businesses survive and pay salaries to employees during the crisis.</p> <p>There are no unemployment benefit schemes under the current Social Security system, but the Social Security Board announced that insured laid-off employees are eligible for certain benefit extensions, including an extension of healthcare benefits for unemployed workers from six months to one year from the date of unemployment.</p> <p>Before the end of 2020, labor-intensive community infrastructure projects for laid off employees and returning migrants are expected to be implemented.</p>	○
Thailand	<p>An economic crisis has been declared from March 1, 2020, to February 28, 2022, which allows the Social Security Office to pay compensation to employees whose employment contracts have ended during this period for the following reasons:</p> <ul style="list-style-type: none"> • Termination by the employer. This entitles employees to receive compensation at the rate of 70% of their daily wage contributions to the Social Security Office, limited to 200 days for each termination. • Resignation or expiration of definite employment. This entitles the employees to receive compensation at the rate of 45% of their daily wage contributions to the Social Security Office, limited to 90 days for each period of unemployment. <p>In both scenarios, the maximum wage used as the basis for calculation is THB 15,000 per month, and the employees to be compensated must be eligible under the Social Security Act. Workers affected by COVID-19 who are not covered by the Social Security Fund will receive financial assistance of THB 5,000 per month for three months (April to June 2020).</p>	✓
Vietnam	<p>Yes. Under Resolution No. 42/NQ dated April 9, 2020:</p> <ul style="list-style-type: none"> • Employees whose labor contracts are suspended or who agree with their employers to take unpaid leave for one month or more will receive VND 1,800,000 (about USD 76) per month calculated from April 1, 2020, for up to three months; and, • Employees whose labor contracts are terminated and who are not qualified for unemployment insurance benefits, and uncontracted employees (freelancers) who lose their jobs will receive VND 1,000,000 per month (about USD 42), for up to three months. Employees who receive unemployment insurance benefits will not be entitled to the support. 	✓

10. Will laid-off workers or workers with reduced hours, or who are furloughed, be eligible for unemployment insurance?		
Cambodia	There is no unemployment insurance in Cambodia.	✗
Laos	Yes. However, employees must fulfill some requirements under the Law on Social Security, in order to be eligible. The employee may receive unemployment benefits for a total of 12 months if they have contributed to the national social security fund for at least 145 months.	✓
Myanmar	There is no unemployment insurance in Myanmar.	✗
Thailand	<p>For laid off workers, please see our response to question 9 above.</p> <p>For furloughed workers who are not receiving wages, but whose employment has not been terminated, the Social Security Office will pay compensation during the work cessation period at the rate of 62% of each employee's daily wage contributions to the Social Security Office, for a maximum of 90 days. The maximum wage used as the basis for calculation is THB 15,000 per month.</p>	✓
Vietnam	Laid-off workers, if participating in unemployment insurance, will be eligible for unemployment insurance. Workers with reduced hours, or who are furloughed, will not be eligible for unemployment insurance.	○

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11. What is the best strategy for reducing labor costs (legally and practically speaking) in your country under the current situation?

Cambodia	<p>The suspension of employment contracts may be the best option for employers who are unable to pay wages to their employees. By adopting this approach, employers are not required to pay wages, except in the garment and tourism sectors, and employees are not required to work. At the end of the suspension period, the employment relationship typically returns to normal.</p> <p>Although the period of suspension must not exceed two months under the Labor Law, we speculate that the government may extend the maximum duration of a suspension due to the unique nature of the COVID-19 epidemic and its impact on businesses.</p>
Laos	<p>Reducing the number of workers for business reasons may be an option. However, since severance will have to be paid (10% of the last month's salary, multiplied by the number of months worked), employers may wish to assess the length of service of its employees before doing so.</p> <p>Reducing salary unilaterally is only possible if the business operations of the company are temporarily closed, which may not be a suitable solution for the employer.</p> <p>The approach that has been most commonly chosen, to date, is a mutual agreement between the employer and employees, whereby employees agree on a series of measures proposed by the employer to reduce the economic pressure on the company. Nonetheless, employees must have the choice to accept or decline the proposition.</p>
Myanmar	<p>The best strategy depends on the length of service of the employees. Compensation for termination in Myanmar is relatively low, unless the employee has worked for a long period of time (10–20 years). If there is likely to be a reduced workload for a substantial period of time, termination and re-hiring on contracts for shorter hours should be considered. If there will be a complete stoppage, termination and re-hiring at a future date should be considered.</p>
Thailand	<p>This would depend on whether the employer intends to take temporary action or more permanent action. For example, the employer could negotiate with the employees to temporarily reduce the employees' working days and proportionately reduce their wages, or request the employees to take unpaid leave for a specified period. If the employer wants to continue its business in the long run, but wants to cease operations temporarily, it is entitled to do so, but is obligated to pay employees at least 75% of their regular working-day wages, subject to certain conditions, during the cessation.</p> <p>If the employer intends to take more permanent action, the employer may consider terminating its employees, though this gives rise to severance pay obligations, among other things.</p>
Vietnam	<p>The best strategy for reducing labor costs would be to request the employees to take unpaid leave or annual leave, or reduce working hours with reduction of salary, explaining to them that the company could restructure or make layoffs, but in the best interests of everyone, the company is instead offering unpaid leave, annual leave, or reduced work hours with salary reduction.</p>

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