

CCS Insights:
Retrenchment 18 – Is
there a concept of
“furlough” in Malaysia?

SEE BEYOND THE NUMBERS

The coronavirus pandemic isn't only affecting people's health and safety, but also has a huge impact on people's lives because it severely hits the economy.

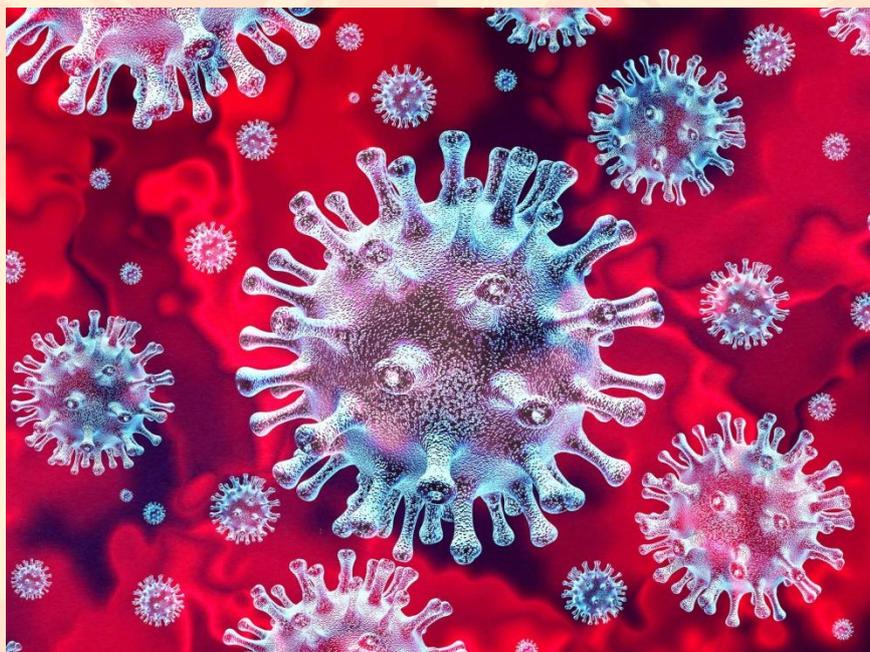
If the workload is significantly reduced due to a downturn in the business, the employer may need to arrange for employees to take unpaid leave, which is expected to be temporary rather than permanent in general.

Employers can use either a furlough or a layoff to reduce the number of their headcount.

But please bear in mind that, unless there are specific provisions in the employment contract allowing the employer to do so, the employer can only change the terms of the employment contract after agreeing with the employee through negotiation between the parties.

However, quarantines and compliance with social distances have led many companies to be forced to arrange for employees to furlough or layoff, and in some instances, both.

Then what is the difference between furloughs and layoffs?



Is there a concept of “furlough” in Malaysia?

Donovan Cheah, partner of Donovan & Ho, a recommended lawyer for labour and employment by the Legal 500 Asia Pacific 2017, 2018, 2019 and 2020, and has also been recognised by Chambers Asia Pacific and Asialaw Profiles for his employment law and industrial relations work, in his recent article, "[COVID-19: What is a Lay-Off?](#)" observed ...

Furlough refers to a temporary leave of employees at the request of the employer, usually without pay or with reduced pay, and due to economic conditions of the employer. In certain jurisdictions like the United Kingdom, under a furlough scheme, the government will cover a certain percentage of workers' wages if they are not working but kept on their employers' payroll.

The phrase “furlough” is not commonly used in Malaysia. However, here, the government has announced an Employee Retention Programme, which is a financial incentive for applicable employees who have been put on unpaid leave by their employers, subject to certain conditions.

But what is the difference between furloughs and layoffs?

Employers use furloughs to cut wages in response to business slowdowns or economic downturns.

For example, during the coronavirus pandemic, Macy's furloughed most of its 125,000 employees, while Disney World pursued the same measures for its 43,000 employees to relieve the financial burden.

Unlike layoff, furloughs take place within a specific time.

People who get furloughed usually get to return to their job after a furlough.

In general, people are not paid during furloughs but they do keep their job.

Employees are instructed not to do anything related to work while they are on furlough.

Nevertheless, employees are free to look for a new job during a furlough. Because if the economic situation does not improve, the company subsequently did not rule out the possibility of cutting positions permanently via a layoff or retrenchment

During a furlough, the employer can arrange for all employees to take unpaid leave, or take turns.

Employment Retention Programme (ERP)

A furlough is “a temporary suspension of employment for a specified period of time during which employees do not receive wages”.

Under the Employment Retention Programme (ERP), when an employee is temporarily furlough without pay for more than a month, they may be entitled to a claim for financial assistance of RM600 per month for up to 6 months.

PAKEJ
RANGSANGAN
EKONOMI
2020

**PERMOHONAN
BANTUAN RM600**



新冠肺炎疫情不仅影响人们的健康和安全，也严重打击了经济，因此人们的生活带来了巨大的影响。

业务如果因为下滑而导致工作量大幅减少，那么雇主可能需要安排雇员体无薪假，而一般上这预计将是暂时而非永久的。

雇主是可以通过休假或裁员来减少员工人数。

但是请记住，除非雇佣合约中有特定条款允许雇主这样做 [安排雇员体无薪假]，否则用人单位只能在与雇员通过双方协商达成同意后，才能更改雇佣合约的条款。

然而，隔离和遵守社交距离，导致许多公司被逼需要安排员工休假或将员工遣散，有时甚至在休假后再遣散。

那么，休假和遣散有什么区别呢？

在马来西亚，是否有“休假”这个概念？

获 Chambers Asia Pacific 及 Asialaw Profiles 认可，《亚太法律 500 强》所推荐 2017 年、2018 年、2019 年及 2020 年的劳工法和劳资关系律师，即：Donovan & Ho 律师事务所的合伙人 Donovan Cheah 在他最近的文章“新冠肺炎：什么是遣散？”中提到...

休假是指基于经济状况，雇员应雇主的要求申请临时休假，通常是无薪或减薪。某些司法区（如：英国），在“休假”方案下，如果工人没有工作而雇主仍然保留员工的就业资格，那么工人一定比例的工资是由政府支付的。

“休假”一词在马来西亚并不常用。但是，与政府之前所宣布的“员工保留计划”相似，那就是在特定条件下，被雇主安排无薪休假的雇员将可以获得政府所提供的补助金。

那么，休假和遣散到底有什么区别？

雇主利用休假来削减工资，以应对业务放缓或经济下滑的情况。

例如，在新冠肺炎疫情期间，梅西百货 [Macy] 对其 125 千名员工中的大多数安排了休假，而迪士尼世界 [Disney World] 则对其 43 千名员工采取了同样的措施，以减轻财务负担。

与“遣散”不同的是，“休假”是在特定的时间内进行的。

休假的员工，通常会在休假结束后就返回工作岗位。

一般上，员工在休假期间不会领薪水，但他们的工作确得以保留。

工人在休假期间，被指示不做任何与工作有关的事情。

尽管如此，工人在休假期间是可以自由寻找新工作。因为如果经济状况没有改善，公司随后不排除还可能通过遣散或裁员来永久性辞退员工。

如果公司采取休假措施，雇主可以安排所有员工休无薪假，又或者是轮流休假。

就业保留计划 (ERP)

休假是指“在指定的时间内暂时停工，而在此期间，员工是没有工资的”。

在“就业保留计划” [ERP] 方案下，当雇员暂时休无薪假长达一个月以上时，符合特定条件后，他们将享有每月 600 令吉的补助金。

**For further consultation, please
contact:**

Chin Chee Seng

Partner

+6012 365 4331

cschin@ccs-co.com

Jared Low

Assurance Manager

+6018 763 4813

jared@ccs-co.com

Wong Woei Teng

Audit Manager

+6017 237 8233

woeiteng@ccs-co.com

Vivian Lim

HR Manager

+6012 618 6220

vivian@ccs-co.com

Yap Huey Shan

Assistant Audit Manager

+6012 369 7222

hueyshan@ccs-co.com

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