

International employment: Where is it best to work and why?

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Our world is more open and accessible than ever before. With rapid technological advances, agile working is not just about working from home, but working from anywhere – including overseas. However, employment laws are far from international and it is well worth considering the rights that you can rely on in different countries when choosing where you want to live and work.

Here four of our international employment lawyers give you a guide to employment rights in four Withers locations.

United Kingdom

Once upon a time, UK employment law was all about the master-servant relationship and children cleaning soot-filled chimneys. However, if you are based in the UK today, you will enjoy far better employment rights than your historic counterparts.

Particularly for those coming from the US, the most unusual concept in UK employment law will be unfair dismissal, which runs contrary to the US idea of 'at-will' employment. This means that if you have more than two years' service, you can only be fired for a fair reason following a fair process – or will be entitled to compensation. The potentially fair reasons are capability (which may include ill-health or underperformance), misconduct (either gross misconduct which warrants immediate dismissal or repeated misconduct following warnings), redundancy, and breach of a statutory requirement (e.g. loss of immigration rights). From an employee's point of view, probably the most interesting and unusual fair reason for dismissal is 'some other substantial reason' that would justify dismissal ('SOSR'). Do be aware that it has been held by the courts that a SOSR dismissal can include personality clashes between colleagues that become so severe that the business is being disrupted.

We all know that relocating for a job can be an expensive business but what you might not know is that many employers will assist you, particularly where an international relocation is required. In the UK, employers can cover up to £8,000 in respect of certain removal expenses and benefits for new employees without liability for income tax or National Insurance (the UK's social security regime). There are certain restrictions and conditions on this, notably that the relocation expenses must be incurred before the end of the tax year following the one in which you start the new job, but it is a helpful tool to put tax-free money into your pocket.

Finally, to compensate for the fact it is always raining in the UK (!) full-time employees are entitled to at least 28 days' holiday per year (including 8 public holidays). We find that many senior executive contracts provide for 32 to 34 days and, unlike in some jurisdictions, you generally won't be judged by your employer or colleagues for taking all of that. In fact, an increasing number of employers allow employees to 'buy' additional holiday. Those extra days are truly invaluable when you are thinking of flying further afield in search of somewhere warm and sunny.

Whilst we may not have the weather, we have castles, palaces and quaint little towns a plenty. And never forget – if you work in London, Blenheim Palace and the Great British countryside are just over an hour away and Paris just over two by Eurostar.

United States

While the United States may not have quite as many worker protections as its UK (or Asian) counterpart(s), its inherent capitalistic and free-will spirit are often a motivating factor for those who choose to work and live there.

As a general default position, most employment relationships in the U.S. are considered to be 'at-will'. Essentially, the employment relationship can

be severed by either party with or without notice or cause provided that the reason is not unlawful. This at-will relationship offers the opportunity for flexibility during your career; you can search and move to better financial opportunities when they present themselves, new and exciting challenges, and depart from unsatisfying interpersonal relationships in the workplace, all without consequence or restraint from your employer. This works both ways, creating optimal relationships and success for both employers and employees when the economy is thriving.

Similarly, while you may be asked to agree to post-employment restrictive covenants such as non-solicitation and non-competition restraints, as a general matter, most Courts will only enforce such covenants if they protect a legitimate interest of your employer. In fact, Courts will assess whether those restraints serve that legitimate purpose or are purely anti-competitive. If the latter, they will decline to uphold them or will modify them narrowly. This ensures that employees in the U.S. are not unfairly hampered from seeking new employment, whilst also encouraging mobility and a competitive spirit for all. Provided you are not using your prior employer's confidential information, you can pursue new opportunities with limited restraint.

While still lagging behind many other countries, a number of U.S. states are implementing greater protections for medical, disability and pregnancy and/or baby-bonding leave. Although these mandates put greater financial stress and responsibility on employers, employees may welcome this change and we may find that states offering these protections and benefits see an increase in their talented workforce.

Finally, those working in New York specifically and, in particular, those that find themselves working late, can take comfort in the plethora of restaurants and services open late and ready to provide a little extra flavor and spice to your working life. This allows you to focus primarily on your job and your family – not your dry cleaning.

Hong Kong

While well-known for its low, progressive rate income tax regime capped at 17% of your net chargeable income, Hong Kong also has robust employment laws and a generous pension scheme to add to the lure of working in this vibrant city.

Unlike English law, Hong Kong law gives employees the statutory right to terminate employment by giving notice or by agreeing to make a payment of wages in lieu of notice at any time. Any contractual provisions restricting the time when you may serve notice and pay liquidated damages for leaving before the expiry of a term, are fetters on your statutory rights and therefore unenforceable.

Hong Kong also has a generous pension scheme. Although you are required to contribute 5% of your monthly salary, up to a maximum of HK\$1500, your employer is mandated by law to match your mandatory contributions. On top of this, you are also given the option to make voluntary contributions in addition to mandatory contributions to top up your retirement savings. You are also free to withdraw your accrued pension benefits when leaving Hong Kong permanently or when you reach early retirement at the age of 60, making for another attractive benefit.

Finally, unbeknownst to some, the juxtaposition of Hong Kong's city and nature is truly breath taking. You will always be able to find ways to escape the everyday monotony of urban life with a plethora of outdoor activities waiting at your doorstep. Within 30 minutes, you can get away from the hustle and enjoy mountain trails, outlying islands, beach barbeques, camping, sailing, wakeboarding, and junk boat trips.

Singapore

Singapore is known to be a haven for employers as its employment laws provide relatively limited protection for employees. However, whilst the protections are few, they are not non-existent. Basic rights are provided under the Employment Act. You should be aware, however, that this does not apply to managers or executives, with the exception of those earning less than S\$ 4,500. The good news is that the Employment Act is set to be revamped and employee protections, including managers and executives, will be extended.

At present, you are entitled to receive written notice of termination for a period tied to the length of your service. This runs from one day's notice, if you have been employed for less than 26 weeks, to 1 month, if you have been employed for five years or more. However, alternatively, you and your employer are free to contractually agree on the length of the termination period (usually between one to two months) in the event that either of you wish to terminate the employment contract.

One important benefit that all employees enjoy, whether managers or not, is the right to have a fixed percentage of your salary paid into your account with the Central Provident Fund Board by your employer, on top of your salary. Whilst you are also required to make a contribution, from 5% to 20%, your employer has to pay anywhere between 7.5% and 17%. This CPF scheme is an incredible social benefit for Singaporeans and Singapore Permanent Residents, a hybrid forced savings / pension scheme, where you are entitled to make withdrawals from your account when you reach the prescribed age.

Finally, whether you are in a managerial, executive or any other position, you do not enjoy any statutory benefits with regards to severance. However, this stark position is alleviated by the Tripartite Alliance for Fair and Progressive Employment Practices (TAFEP) accepted by the Ministry of Manpower (MOM), Singapore National Employers Federation (SNEF), and National Trades Union Congress (NTUC). The guidelines recommend that if you are retrenched, you should receive retrenchment benefits of between 2 weeks to 1 month for each year of service. While these guidelines do not have the force of law, they do have a very salutary effect and employers generally offer their retrenched employees some severance benefits.

Whilst it may seem that there are few benefits to working in Singapore, there are many personal and social incentives to living there. Singapore, perfectly situated as the "hub of Asia", was voted in 2017 for the third year running as the world's best overall destination for expatriates. This is not surprising as the city-state offers something for everyone; abundance of rooftop bars with a speculator view of the city; year round activities such as Laneway Festival, Singapore Yacht Show, Ultra Singapore, F1 Grand Prix and ZoukOut; amazing weekend getaway destinations such as Maldives, Boracay and Bali which are a short flight away; a mix of cultures offering a delectable choice of both local and international cuisine and endless shopping at Orchard for the shopaholic in all of us. And let's not forget, as abovementioned, the Employment Act is due to be reviewed and revamped. This will improve the position of all employees in Singapore, which this is something that we can all look forward to.

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