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Clarification on Compensation in Cases of Termination of Undetermined Duration Contract

On 14 August 2020, the Ministry of Labour and Vocational Training (“**MLVT**”) issued a clarification on the compensation in lieu of prior notice and damages in cases of termination of undetermined duration contract (“**UDC**”), providing additional explanation to Letter No. 295 dated 29 July 2020 of the Inspection Department of the MLVT on clarification of “damages” and “compensation in lieu of prior notice”. MLVT clarifies the following:

1. A party who wishes to terminate a UDC must notify the other party in writing except in instances as set out under Article 82 of the Labour Law. According to Article 75 of the Labour Law, the period of written prior notice to be given to UDC employees shall be as follows:
 - **seven days:** if the employee has consecutively worked in the enterprise for less than six months;
 - **15 days:** if the employee has consecutively worked in the enterprise for between six months and two years;
 - **one month:** if the employee has consecutively worked in the enterprise for more than two years to five years;
 - **two months:** if the employee has consecutively worked in the enterprise for more than five years to ten years; and
 - **three months:** if the employee has consecutively worked in the enterprise for more than ten years.

If the employer has complied with the above requirement, the employer is not obliged to “compensate in lieu of prior notice” at the termination of the UDC. In the event that the factory/enterprise has closed because the owner of the factory/enterprise runs away, the rule on compensation in lieu of prior notice does not apply as such a case is dealt with under separate regulations.

2. Under Article 91 (new) of the Labour Law, the employer is liable to pay damages to the employees when the employer (i) terminates the employment contract without a valid reason,

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or (ii) directly terminates individual employee which is not a collective termination and affects the dignity or causes misunderstanding from the public or other employees on the terminated employee.

However, damages shall not be provided to the employees if the termination is due to the universal decline in the production chain. Damages will not also be provided if there are events leading to bankruptcy that would require the factory/enterprise to cease any production chain in its entirety or in parts.

3. On account of the COVID-19 pandemic and by virtue of Article 87 (new) and Article 91 (new) of the Labour Law, a “valid reason” that leads to the termination of a UDC can be any of the following events:
 - Cancellation of an entire purchase order, cancellation of a specific product purchase order resulting in the shutting down of the entire process of any production chain, suspension of accepting all produced products that have been ordered, no payment made by the purchaser following the sale-purchase contract. The factory/enterprise must provide sufficient evidence to prove any of the above instances.
 - Complete closure of the factory/enterprise after attempting to resolve the economic issues through all means, including employment suspension and/or collective termination of employment contracts of employees.
 - Insolvency.

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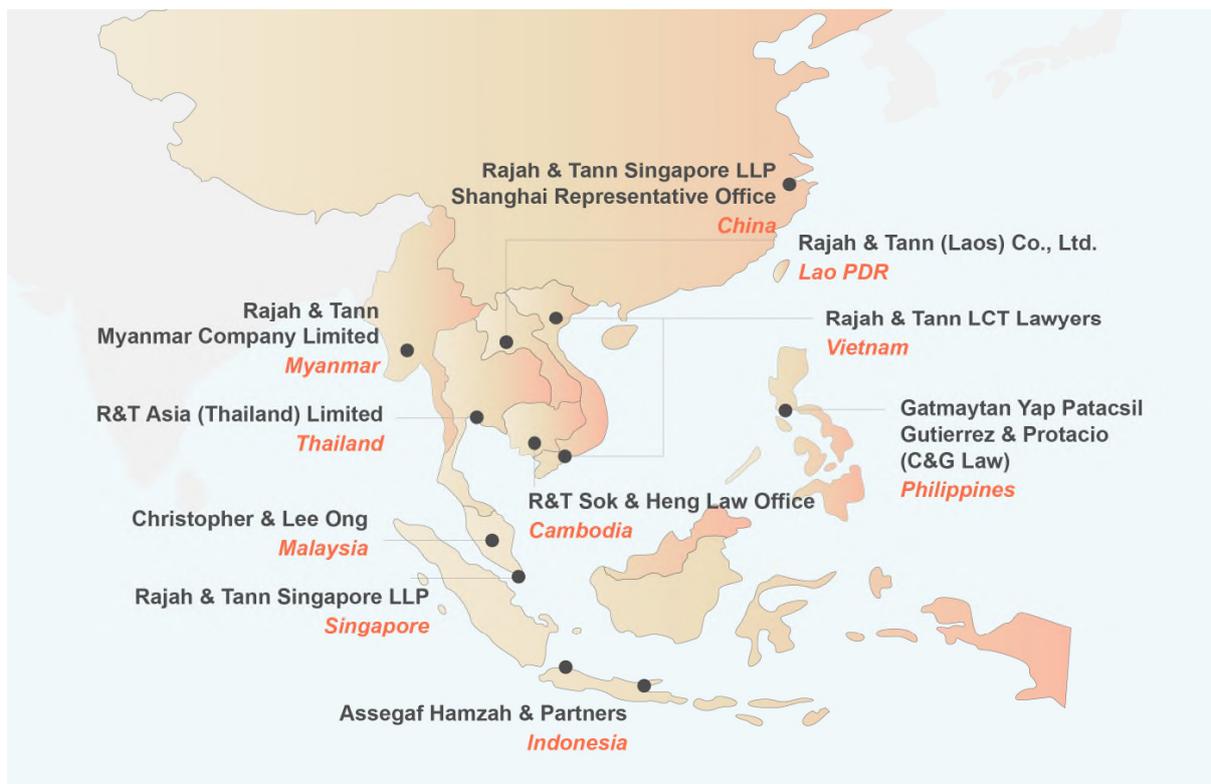
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