

Comparison of Provisions and Schemes of Employees Protection in Hong Kong and other Jurisdictions

Severance payment/ Redundancy payment	Employees Protection Arrangements				Taxation systems ¹
	<i>Preferential treatment of debts in employers' insolvency</i>	<i>Government/State guaranteed payment of employees' entitlements</i>	<i>Unemployment benefits</i>	<i>Other measures</i>	
Hong Kong					
Severance payment (for dismissal by reason of redundancy or being laid off) ² Minimum years of service required: Severance payment: 24 months under a continuous contract	<ul style="list-style-type: none"> * Arrears in wages (4 months prior to winding-up order up to a maximum of HK\$8,000) * Severance payment (up to a maximum of HK\$8,000) * Wages in lieu of notice (up to a maximum of HK\$2,000) * Holiday pay (whole amount) 	None	None	Protection of Wages on Insolvency Fund ex-gratia payment: <ul style="list-style-type: none"> * Wages (up to HK\$36,000) * Severance payment (up to HK\$50,000 and ½ of severance payment exceeding HK\$50,000) * Wages in lieu of notice (1 month's wage or HK\$22,500, whichever is the lesser) 	Corporation tax rate (16%) Personal income tax rate (marginal rates ³ of 2% to 17% or maximum 15% on total income)

¹ This refers to corporation and personal tax only. There may be sales tax in certain jurisdictions.

² The rate is 2/3 of the last month's wages or 2/3 of HK\$22,500, whichever is the lesser, for every year of service for monthly-rated employees; or 18 days' wages chosen out of the employee's last 30 normal working days or 2/3 of HK\$22,500, whichever is the lesser, for every year of service for other employees. Where an employee is simultaneously entitled to severance payment and to a gratuity based on length of service, a retirement scheme payment or a relevant mandatory provident fund scheme benefit, the amount of severance payment can be set off by any gratuity or the employer's contribution to the retirement scheme or mandatory provident fund scheme.

³ Tax rates applicable on net income after deduction of allowances.

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	<i>Preferential treatment of debts in employers' insolvency</i>	<i>Government/State guaranteed payment of employees' entitlements</i>	<i>Unemployment benefits</i>	<i>Other measures</i>	
Australia					
Severance pay (for employees with 1 year or more continuous service) and the rate varies from 4 weeks' pay to 8 weeks' pay, depending on the number of years of service	<ul style="list-style-type: none"> * Arrears in wages (in respect of services rendered before the date of liquidation) * Leave of absence (long service leave, extended leave, annual leave, sick leave etc. due on or before the date of liquidation) * Severance pay 	<p><u>Employees' Entitlement Protection Scheme</u></p> <ul style="list-style-type: none"> * Employees' employment must have been terminated because of employers' insolvency * Provides a safety net up to 29 weeks' pay at ordinary time rate (4 weeks unpaid wages; 4 weeks annual leave pay; 5 weeks pay in lieu of notice; 4 weeks redundancy pay; 12 weeks long service pay) * Payment per employee capped at A\$20,000 	<p>《Unemployment Assistance System》</p> <ul style="list-style-type: none"> * New Start Allowance Age 21 to 65; must be unemployed, capable of undertaking and actively seeking work; subject to means test; between A\$145.90 per week to A\$174.95 depending on age, living arrangements, marital status and whether recipient has dependent children; waiting period is 7 days 	Directors may be held liable to compensate employees if they enter into transactions with intention of avoiding or significantly reducing the employees' entitlements payable.	<p>Corporation tax rate (34%)</p> <p>Personal income tax rate (marginal rates of 0% to 47%)</p>

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Australia (Cont'd)					
			* Youth Allowance Age 16 to 20; must be unemployed who undertake approved education, training, job search or other employment preparation activity; subject to means test; between A\$73.20 to A\$175.10 a week depending on age, living arrangement, marital status and number of dependent children		

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Canada					
<p>Severance pay (for dismissal except where termination is by way of just cause)</p> <p>Minimum year of service required: 1 year of continuous employment</p> <p>Rate: 2 days' wages in respect of each completed year of employment but not less than 5 days' wages at employee's regular rate.</p>	<p>* Arrears in wages (for wages earned in 6 months before employer's bankruptcy; maximum amount is C\$2,000 under Bankruptcy and Insolvency Act)</p> <p>* Some provinces also have established statutory security interest and deemed trust in respect of the wage claims. The effect of such an arrangement gives the claims priority over secured claims⁴.</p>	None	<p>《Social Insurance System》</p> <p>Employment Insurance Act 1996</p> <p>* covers all wage and salary earners including Federal Government employees</p> <p>* qualifying conditions vary depending on unemployment rate of region; registered, able, willing and available to work; not qualified if unemployment due to voluntary leaving without just cause or due to misconduct</p>	<p>Directors' liability legislation: directors are liable to employees for up to 6 months' unpaid wages under the Canada Business Corporations Act.</p> <p>The Canada Labour Code also provides that directors of a corporation are jointly and severally liable for wages as well as termination and severance pay to a maximum amount equivalent to 6 months' wages.</p> <p>In some cases, the liability for unpaid wages is absolute, and there is no due diligence defence.</p>	<p>Corporation tax rate (Combined Federal and Provisional Tax Rates being 15.2% to 46.12%)</p> <p>Personal income tax rate (Federal: Marginal Rates 17% to 29%; Provincial: between 39.5% to 69% of the Federal Tax)</p>

⁴ In respect of "statutory security interest" it is declared through statute that employees' wage claims constitute a lien or a charge in favour of the employees over other claims, including the secured ones, in the property of the company. Under "deemed trust", an employer is deemed to hold the wages due to an employee in trust for the employee and the employee has a lien on the assets of the employer for the amount held in trust.

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Canada (Cont'd)					
			* unemployment benefit (55% of previous average insured earnings – maximum C\$413 a week; payable to up to 45 weeks; waiting period is 2 weeks)		

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New Zealand					
No information on hand	* Arrears of salary and wages and related earnings (accrued in previous 4 months up to a maximum of NZ\$6,000)	None	《Unemployment Assistance System》 * covers every person under qualifying age for superannuation who is unemployed * qualifying conditions are 18 or older; 24 months of residence; income-tested; registered at labour office; able and willing to work and seeking work; unemployment not due to voluntary leaving employment or misconduct or industrial dispute * Unemployment benefits (from NZ\$98.58 to NZ\$261.90 per week depending on age, marital status, and whether the recipient has children; waiting period is 1 to 10 weeks depending on previous income and family circumstances)	None	Corporation tax rate (33%) Personal income tax rate (marginal rates of 19.5% to 39%)

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Singapore					
Retrenchment benefit Eligibility is continuous service of 3 years. However, the Employment Act does not stipulate the quantum of retrenchment benefits, which is left to be negotiated between the employee and his employer unless it is provided for in the contract of service.	<ul style="list-style-type: none"> * Arrears in wages (up to a maximum of 5 months of salary or S\$7,500, whichever is the lesser) * Retrenchment benefits (up to a maximum of S\$7,500) * Vacation leave pay (whole amount) 	None	None	Not directly related to unemployment. There are other programmes such as public assistance scheme, short-term finance assistance scheme, rent utilities assistance schemes and Medifund.	Corporation tax rate (24.5% from 2002) Personal income tax rate (marginal rates of 2% to 28%)

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United Kingdom					
<p>Redundancy payment (for dismissal by reason of redundancy or lay-off with a minimum of 2 years' of service)</p> <p>Rate (per year of service): Aged 18 to below 22: 1/2 week's pay; Aged 22 to 41: 1 week's pay; Aged 41 to 65: 1½ weeks' pay; Maximum years' of service counted : 20 Maximum amount of week's pay: £240 Maximum redundancy payment: 30 weeks' pay</p>	<p>* Arrears in wages (Maximum of 4 months before relevant date; and maximum amount £800)</p> <p>* Holiday pay (accrued during any period of employment before relevant date)</p> <p>* Pension claims (12 months of employers' contribution; 4 months of employee's contribution if deducted from pay)</p>	<p>National Insurance Fund Under Employment Relations Act 1996</p> <p>* Arrears of pay (up to a maximum of 8 weeks at up to £230 per week)</p> <p>* Holiday pay (up to a maximum of 6 weeks at up to £230 per week for holiday accrued in 12 months before insolvency date)</p> <p>* Notice pay (statutory minimum notice at up to £230 per week)</p> <p>* Redundancy pay (no detailed information)</p> <p>* Unfair dismissal (no detailed information)</p> <p>* Pension claim (12 months of employer's contribution (limited to 10% of payroll); 12 months of employee's contributions (if deducted from pay))</p>	<p>《Dual Social Insurance and Social Assistance System》</p> <p>Job-seeker's Act</p> <p>* covers employed persons whose earnings are £66 a week or more</p> <p>Job-seeker's Allowance (contribution-based)</p> <p>* qualifying conditions:</p> <ul style="list-style-type: none"> • 18 or above and out of work or working less than 16 hours a week • contributions paid on previous earning up to a certain requirement • registered at employment office, capable of, available for work and actively seeking job <p>* flat rate of £51.40 a week for up to 6 months and waiting period is 3 days</p>	None	<p>Corporation tax rate: (30%)</p> <p>Personal income tax rate (marginal rates of 10% to 40%)</p>

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United Kingdom (Cont'd)					
			<u>Job-seeker's Allowance (income tested)</u> * qualifying conditions (no entitlement to contribution-based Job- seeker's Allowance; no income or an income which does not exceed the applicable amount; not payable if savings over £8,000 or working more than 16 hours a week) * amount dependent on age, household income and composition		

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USA					
No information on hand	<ul style="list-style-type: none"> * Arrears in salary (for salaries earned in 3 months preceding bankruptcy; maximum amount: US\$2,000) * Bankruptcy law recognises State statutory security interest covering wage claims, although not all States have enacted such protection * Pension contribution claims (within 6 months before bankruptcy; maximum amount: US\$2,000) 	None	<p>《Compulsory Insurance System》</p> <ul style="list-style-type: none"> * covers employees of firms in industry and commerce; employees on non-profit organisations (casual employees, family labour are excluded) * qualifying condition (requires minimum earnings in preceding base year⁵ equal to specified multiple of weekly benefit or to specified total amount; registered at employment service; capable of and available for work; unemployment not due to voluntary leaving, misconduct, labour dispute or refusal of suitable offer) 	None	<p>Corporation tax rate: Federal (15-35%) Provincial/State (0-11.25%)</p> <p>Personal income tax rates: Federal (Marginal Rates of 15-39.1%) State (varies from one State to another)</p>

⁵ In many States, the base year is the first four quarters out of the last five prior to the application for benefits.

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USA (Cont'd)					
			* Unemployment benefits (about 50% of earnings, according to diverse State formulae; payable in most States up to 26 weeks; federal law provides up to 13 additional weeks in states with high unemployment; waiting period is 1 week)		