

Employment & Industrial Relations

The Digital-Age of Misconduct: The High Court Upholds Dismissal for Sexual Harassment via WhatsApp messages

In **Madiahlagan A/L Sundaram v Lotuss Stores (Malaysia) Sdn Bhd** (CIVIL APPEAL NUMBER: AA-16A-9-09/2023), the High Court on 9 January 2025 upheld the Industrial Court's decision (Award No. 1921 of 2023), in ruling that a former employee's (hereinafter referred to as "the Claimant") dismissal on the ground of sexual harassment was with just cause and excuse.

The Claimant held the position of Senior General Manager. He was dismissed for sending inappropriate WhatsApp messages to subordinate employees, conduct that was deemed to amount to sexual harassment.

One of the main issues considered by the High Court was whether the Industrial Court had failed to consider that the evidence tendered was hearsay evidence and thus inadmissible. In this case, only the Area Business Partner was present in Court to testify on the case.

The Claimant raised the issue that no evidence or documentation was submitted to establish that the answers and signature in the interview notes belonged to the affected female subordinate. The Claimant further raised the issue that the affected female subordinate did not testify before the Industrial Court.

In affirming the Industrial Court's decision, the High Court held that while corroborative evidence can enhance the credibility of sexual harassment claims, it is not an absolute requirement for establishing such torts.

The High Court took into account the Claimant's admission in sending the WhatsApp messages in question and ruled that electronic records in the circumstances were sufficient.

The key takeaway from this case is the importance of preserving electronic evidence in instances of misconduct, especially screenshots and transcripts of chat logs, where applicable.

Legal Updates

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CONTACT US FOR FURTHER INFORMATION REGARDING EMPLOYMENT & INDUSTRIAL RELATIONS MATTERS.

Financial Services

Developments relating to electronic money

The following subsidiary legislations were issued and came into effect on 2 January 2025:

- (a) [Financial Services \(Limited Purpose Electronic Money\) Order 2024](#) [P.U.(A) 463/2024]; and
- (b) [Islamic Financial Services \(Limited Purpose Electronic Money\) Order 2024](#) [P.U.(A) 461/2024],

which seeks to exempt any person who issues “*limited purpose e-money*” (as defined therein) and satisfy the conditions in paragraph 4 therein from seeking the approval of Bank Negara Malaysia (“BNM”) to carry on an approved business under the respective statutes.

Consequentially, BNM has also:

- (a) revised the [policy document](#) on electronic money (“e-money”) which came into effect on 31 January 2025 (“E-money PD”), which effectively excludes limited purpose e-money issuers from the requirements of the E-money PD.
- (b) issued the following subsidiary legislations amend Part 1 of Schedule 2 of the respective statutes by excluding (i) an issuer of limited purpose e-money; as well as (ii) from the definition of “*deposit*”:
 - [Financial Services \(Amendment of Schedule 2\) Order 2024](#) [P.U.(A) 464/2024]; and
 - [Islamic Financial Services \(Amendment of Schedule 2\) Order 2024](#) [P.U.(A) 462/2024].

Developments relating to insurance sector

Following the issue of policy document on licensing and regulatory framework for digital insurers and takaful operators which came into effect on 2 January 2025, the following subsidiary legislations were also issued:

- (a) [Financial Services \(Minimum Amount of Capital Funds or Surplus of Assets over Liabilities\) \(Licensed Person\) \(Amendment\) Order 2024](#) [P.U.(A) 471/2024]; and
- (b) [Islamic Financial Services \(Minimum Amount of Capital Funds or Surplus of Assets over Liabilities\) \(Licensed Person\) \(Amendment\) Order 2024](#) [P.U.(A) 475/2024],

which sets out the capital requirements applicable to a licensed digital insurer and takaful operator, respectively.

On 2 January 2025, BNM has also issued a new [Insurers and Takaful Operators-Repairers Code of Conduct](#). The Code of Conduct sets out the

“minimum standards on fair, timely and professional conduct that must be adhered by Insurers and Takaful Operators and Repairers to promote more effective collaboration between Insurers and Takaful Operators and Repairers with the aim to further elevate the professionalism and efficiency among IT Insurers and Takaful Operators and Repairers in handling motor claims and repairs.”

Developments relating to capital markets sector

The definition of “digital token” in the Capital Markets and Services (Prescription of Securities) (Digital Currency and Digital Token) Order 2019 [P.U.(A) 12/2019] was amended with effect from 9 January 2025 pursuant to the [Capital Markets and Services \(Prescription of Securities\) \(Digital Currency and Digital Token\) \(Amendment\) Order 2025](#) [P.U.(A) 6/2025].

Developments relating to Labuan regulated entities

The Labuan Financial Services Authority has issued:

- (a) the following exposure draft, for public feedback by 28 February 2025, in respect of regulatory requirements which are applicable to Labuan Islamic banks and Labuan banks undertaking Labuan Islamic banking business (Labuan Bank):
 - (i) [Guidelines on Risk Weighted Assets — Operational Risk](#), which sets out the standards and guidance for calculation of a Labuan Bank’s operational risk-weighted assets under the Banking Capital Adequacy Framework and Islamic Banking Capital Adequacy Framework.
 - (ii) [Guidelines on Risk Weighted Assets — Credit Risk](#), which sets out the standards and guidance for computing requirements for credit risk according to the Standardised Approach (as defined in the guidelines).
 - (iii) [Guidelines on Risk Weighted Assets \(Labuan Islamic banks\)](#).
 - (iv) [Guidelines on Capital Components \(Labuan Islamic banks\)](#).
- (b) the [Guidelines on Credit Token and Islamic Credit Token Business](#) in Labuan IBFC on 7 February 2025. The Guidelines sets out the regulatory requirements

applicable to a person conducting a credit token business in the Labuan international business and financial centre.

Pursuant to the Guidelines, a token issued under the credit token business will be classified as a “*non-securities token*” (other than securities token as defined in the Guidelines on Labuan Services Token Offering) and is not prescribed as “*securities*” under section 2 of the **Labuan Financial Services and Securities Act 2010** or **Labuan Islamic Financial Services and Securities Act 2010**.

CONTACT US FOR FURTHER INFORMATION REGARDING FINANCIAL SERVICES MATTERS.

Personal Data Protection & Privacy Laws

Malaysia Passes Data Sharing Act 2024: Strengthening AI, Innovation & Security

Malaysia has passed the [Data Sharing Act 2024](#), a legislation that enables Federal Government agencies to share data under a regulated framework while ensuring security and privacy protections. The key highlights of the **Data Sharing Act 2025** include:

- Facilitating Federal Government Data Sharing – The new law enables data sharing between Federal Government agencies, addressing previous limitations.
- National Data Sharing Committee Oversight – A committee will evaluate data-sharing requests based on specific criteria, including data nature, purpose, handling methods, and privacy safeguards.
- AI and Digital Development – Supports Malaysia’s push for AI and digital innovation, aligning with the Ministry of Digital’s efforts to enhance technology adoption.
- Cybersecurity & Data Protection – Agencies must demonstrate robust cybersecurity measures before receiving data. Personal data protection provisions are in place, with penalties for breaches.
- Penalties for Data Breaches – Violators face fines up to RM1 million or imprisonment of up to five years, or both.
- Future Expansion – Initially applies to Federal agencies, with potential expansion to state agencies and beyond.
- Part of Broader Digital Reforms – The bill follows recent amendments to the **Personal Data Protection Act 2010** and the introduction of the **Cyber Security Act 2024**.

CONTACT US FOR FURTHER INFORMATION REGARDING PERSONAL DATA PROTECTION & PRIVACY LAW MATTERS.

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