

## Client Alert

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## Tightened Rules for Employment Pass Approval

For the first time, the Ministry of Manpower (the "**MOM**") will consider "company-related" factors when reviewing Employment Pass ("**EP**") applications. Currently the MOM only considers the foreign applicants' background such as qualifications, experience and salaries, when assessing EP applications, as such this will be a game changer for all employers in Singapore.

### Overview

The criteria for EP applications will soon be revised to take into account three "company-related" factors, Manpower Minister Lim Swee Say said on Friday, 8 April 2016. The new factors that will be considered in EP applications are as follows:

- the proportion of Singaporeans hired by the company compared to the industry average;
- the commitment of the company to hire and develop Singaporeans; and
- the contribution of the company to the Singapore economy and society.

Companies that are deemed weak in the above three areas in this assessment may face difficulties in renewing the EPs of existing foreigners and obtaining new EPs for fresh hires. Such difficulties include but is not limited to, the curtailment of work pass privileges, increased processing time for new EPs and the renewal of EPs and request for further supporting documents.

On the other hand, companies that strengthen their Singaporean workforce will be recognised by the Government. The Government will assist such companies in hiring foreigners and transferring their expertise to locals, although no concrete details have been shared so far.

The Minister has also said the employment watchdog, Tripartite Alliance for Fair and Progressive Employment Practices, will be given a bigger role to investigate and advise the MOM the employers that should be placed on the watch list.

### Conclusion

The new criteria for EPs applications will make it more difficult for employers to hire foreigners which may have serious consequences on the employers' continued operation and growth in Singapore.

The changes are significant as the focus has shifted from assessing the merits of the EP applicant to both the merits of the employer and the EP applicant when processing EP applications. However, this shift in focus does not come as a surprise to our firm as we have noticed since last year an increase in scrutiny by the MOM on the employers themselves when assessing EP applications. As such, our firm has experience in dealing with many cases where the MOM has requested for company-related supporting documents in order to assess the employers themselves.

The proposed changes to the criteria for EP applications are in line with the tightening up of Singapore's immigration policy. The MOM has and will continue to scrutinise EP applications and employers should ensure they have the necessary evidence and documents on hand to support the hire of the foreigner.

### **Re-employment Age to be Raised to 67**

From July 2017, the re-employment age of workers will be raised from 65 to 67 as announced by the Minister of State for Manpower Sam Tan. Currently, employers are required to offer re-employment eligible workers when they retire at the age of 62, or provide them with the Employment Assistance Payment, a one-off payment, if they cannot be re-employed.

The announcement means that employers will be obligated to offer re-employment to eligible workers up to the age of 67. In addition, older workers may be re-employed by a related or subsidiary company, subject to the agreement from the worker and the new employer will fully take on the re-employment obligations.

Separately, the legal provision allowing companies to cut the wages of employees who turn 60 by up to 10 percent will be removed. The reason being is that more than 98% of companies do not make such cuts to the wages of the re-employed workers. The Government has stated that the wages should be reflective of the job scope and value of the worker, regardless of age.

The raising of the re-employment age ceiling has been long-awaited and was first mentioned by Prime Minister Lee Hsien Loong during his National Day Rally Speech in August 2015. The proposed changes are important given the tightening of the labour market in Singapore. This is a positive measure to cope with Singapore's ageing population and employers have expressed their willingness to let their older employees work for longer as long as they are able to do so.