

Client Alert

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Significant Employment Updates for 2018 (And Beyond)

The employment landscape in Singapore has been experiencing significant changes in recent years, heralding a time that is potentially challenging for employers. This trend looks set to continue as the Singapore Government recently announced further plans to amend existing legislation as well as implement new initiatives¹. The changes are broad and wide-ranging. We set out below the key developments that employers should take note of.

Employment Act (Cap. 91) to Cover All Employees

Currently, the Employment Act (Cap. 91) (the “EA”) covers a relatively limited group of employees, i.e., all employees **except** for managerial or executive employees² earning a basic monthly salary of more than S\$ 4,500.

You would have seen from our previous **client alert** that the Ministry of Manpower (“MOM”) carried out a public consultation earlier this year on the proposed changes to the EA. The consultation exercise closed on 15 February 2018. The MOM has since announced that it will be extending the scope of the EA to include **all** employees.

Once the changes to the EA are in place, all employees will be statutorily entitled to the benefits provided for under the EA. Our view is that in addition to more employees being entitled to the benefits set out in the EA, there are various other significant implications to extending the scope of the EA. For instance, not all provisions of the EA would fit squarely with the compensation packages offered to senior employees, the details of which are frequently commercially negotiated between parties and/or, in the case of multinational corporates, subject to policies set by their global headquarters. We are hopeful that the MOM will take this opportunity to review the EA in totality and consider updating or clarifying certain provisions which may be potentially problematic if applied to senior managerial employees.

The coverage of Part IV of the EA will also be extended to include, amongst others, non-workmen earning up to a basic monthly salary of S\$ 2,600, up from the current salary cap of S\$ 2,500. Part IV of the EA generally regulates working time limits (including providing for entitlements such as statutory annual leave and rest days), and the payment of overtime.

The above amendments to the EA are likely to be tabled in Parliament this September for implementation by 1 April 2019.

¹ We refer to various debates and speeches made in connection with the Budget 2018 and the Committee of Supply debates that have been taking place in the course of this week.

² The Ministry of Manpower takes the view that professionals with tertiary education would also fall within the scope of “managerial or executive employees”.



Employment Claims Tribunal to Hear Claims of Wrongful Dismissals

The recently established Employment Claims Tribunal ("ECT") currently has the jurisdiction to hear all claims in connection with payments owed by an employer to an employee, e.g., salary-related disputes or disputes relating to failure to pay statutory entitlements (such as maternity leave benefits).

With the impending extension of the EA to cover all employees, the MOM has also announced plans for the ECT to hear "wrongful dismissal claims". It is not clear what the MOM means by "wrongful dismissal claims". Assuming the MOM is referring to Section 14 of the EA, "wrongful dismissal claims" would refer to dismissals "without just cause or excuse". Currently, employees covered under the EA have a statutory right to file a claim with the MOM against dismissals which are "without just cause or excuse". It should be noted that pursuant to the EA, dismissals refer to both: (i) termination without any notice or payment in lieu of notice (e.g., termination with cause) **and** (ii) termination with notice or payment in lieu of notice.

Given the MOM's plans for the ECT to hear "wrongful dismissal claims", it appears, therefore, that the jurisdiction of the ECT is set to be widened beyond hearing merely claims in connection with payments owed by an employer to an employee.

We look forward to receiving clarification regarding the scope of wrongful dismissal claims as well as how this might affect the jurisdiction of the ECT in due course.

Tightening of Immigration Law Framework

The MOM continues to express serious concern over ensuring that local Singapore employees have fair access to high-quality jobs (see, for example, the Minister for Manpower's recent mention of 500 companies which have been placed on the Fair Consideration Framework Watchlist for unfairly favouring foreigners in their hiring practices³). As a result, the MOM has introduced further changes to the current immigration law framework in Singapore.

A. S Pass Salary Threshold to Increase to S\$ 2,400

The minimum qualifying salary for an S Pass, which is intended for low- to mid-skilled technical employees, will be raised from S\$ 2,200/month to S\$ 2,400/month in two phases over the next two years.

From January 2019, the S Pass minimum qualifying salary will increase from S\$ 2,200/month to S\$ 2,300/month. The second increase to S\$ 2,400/month will take place from January 2020.

To assist with the transition, S Pass holders whose passes expire before 1 January 2019 will be allowed to renew based on the existing minimum qualifying

³ As in the Committee of Supply Debate which took place on 5 March 2018.



salary of S\$ 2,200. Passes which expire between 1 January and 30 June 2019 will also be allowed to keep to the current renewal criteria, for a maximum period of one year. Those that expire from 1 July 2019 and onwards will have to meet the new qualifying salary.

B. Jobs Bank Advertising Requirements to Tighten for Hiring of Foreign Employees

More companies will be required to advertise jobs on the national Jobs Bank for at least 14 days before applying for an Employment Pass (the "**Jobs Bank Advertising Requirement**").

Currently, companies are exempted from the Jobs Bank Advertising Requirement if, among others, (i) the company has 25 or fewer employees or (ii) the job position pays a fixed monthly salary of S\$12,000 and above.

With effect from 1 July 2018, the above exemptions will be tightened: (i) only companies with 10 or fewer employees will be exempted from the Jobs Bank Advertising Requirement (unless they satisfy another ground for exemption) and (ii) only job positions which pay a fixed monthly salary of S\$15,000 and above will be exempted from the Jobs Bank Advertising Requirement (again, unless the company satisfies another ground for exemption).

More Government Support for Freelancers

In recognition of the increasing number of individuals who are currently engaged as freelancers (i.e., independent contractors)⁴ rather than traditional employees, the Singapore Government has also been looking into ways in which freelancers can be protected.

In this regard, the MOM has released a set of guidelines setting out best practices for hiring freelancers — the new "Tripartite Standard on Contracting with Self-Employed Persons" (a copy of which can be found [here](#)). Companies which adopt the new Tripartite Standard on Contracting with Self-Employed Persons will need to include certain terms of engagement in the services agreement, including but not limited to the nature of services to be delivered, project timelines and payment schedules. In addition, the Tripartite Alliance for Dispute Management will extend voluntary mediation services to all freelancers who encounter payment disputes with companies.

Currently, freelancers do not receive any Central Provident Fund ("**CPF**") contributions from the companies which engage their services. To address this, the Government intends to pilot and implement a "Contribute-As-You-Earn" ("**CAYE**") model by 2020, under which the company engaging the freelancer will make contributions to the individual's Medisave account, as and when the service fee is paid. The plan is for the CAYE model to mirror the CPF contributions that employers contribute monthly for their employees. Further details on the payment of CPF contributions for freelancers, including whether

⁴ Approximately 10% of Singapore's workforce currently consists of freelancers.



this will be a mandatory requirement or merely a best-practice recommendation, will be announced at a later date.

Increased Government Support for Employers with Flexible Work Arrangements, Older Workers, Low-Wage Workers and Employees Undergoing Mid-Career Changes.

The Government will extend and enhance its existing Work-Life Grant which provides funding and incentives for companies to offer flexible work arrangements for employees. Under the enhanced Work-Life Grant, the changes that will be implemented from 1 July 2018 are as follows:

- Employers can receive up to S\$2,000 for each employee on flexible work arrangements, for up to 35 employees. Currently, employers receive S\$2,000 per employee for the first 5 employees and S\$1,500 for the subsequent 20 employees;
- Employers can receive up to S\$3,500, instead of the current S\$2,000 for each employee engaging in job sharing for PMET⁵ jobs; and
- The eligibility criteria for the Work-Life Grant will be changed from requiring at least 20 percent of all employees to be on flexible work arrangements to only 1 employee working on such arrangement.

The Government will also continue to better support the older workers in the workforce by launching a Tripartite Standard on Age-friendly Workplace Practices, which will promote inclusive workplaces that meet the specific needs of older workers. More details will be announced at a later date.

Enhancements have also been announced to the Adapt and Grow Initiative, which provides employers with funding for employing individuals who are undergoing a mid-career conversion or who have difficulty finding jobs. More details can be found [here](#).

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Conclusion

Some of the key updates announced by the MOM represent extensive and significant changes to existing employment and immigration regimes in Singapore. If you have any questions or concerns regarding how these changes might have an impact on your business, please feel free to reach out to any of us in the Employment Team at Baker McKenzie Wong & Leow.

⁵ "PMET" refers to Professionals, Managers, Executives and Technicians.