

Proposed Amendments to the Singapore Employment Act

Introduction

On 18 January 2018, the Ministry of Manpower ("MOM") announced that it was conducting a month-long public consultation exercise on the Employment Act ("EA"), Singapore's main labour legislation. Being a review six years from the last, this public feedback exercise is sought to ensure that the Act remains relevant, and is targeted at affording enhanced coverage to employees. The three areas of review have been identified:

- (i) Whether core provisions for public holiday and sick leave entitlements, timely payment of salary and allowable deductions, and redress for wrongful dismissal should be extended to protect professionals, managers and executives ("PMEs") earning more than S\$4,500 per month;
- (ii) Whether salary thresholds for vulnerable employees to qualify for entitlements such as annual leave, hours of work, overtime pay and rest day ought to be revised; and
- (iii) How dispute resolution services for statutory and contractual salary-related disputes (currently heard by the Employment Claims Tribunal) and wrongful dismissal claims (currently heard by the Ministry of Manpower) can be amalgamated and/or streamlined.

On 2 October 2018, the Employment (Amendment) Bill was tabled in Parliament for the first reading. It is expected to pass through second and third readings, and come into effect by April 2019.

Amendments to the Employment Act and what to expect

At present, employee protection under the EA can be split into two broad categories: (1) core provisions applicable to all employees except PMEs earning more than S\$4,500 per month and (2) additional protection for certain classes of vulnerable employees.

Core provisions

Basic protection under the EA (with the exception of Part IV which deals with rest days, hours of work and other conditions of service) will be extended by the amendments to *all* employees¹, including PMEs earning more than S\$4,500 per month. The following table sets out the significant amendments which have been made to some of the more pertinent EA provisions:

Section 27	Authorised deductions	<p>In general, deductions from salary may not be made unless expressly provided for under Section 27.</p> <p>Section 27 will be amended by the Bill to redefine when deductions may be made, with or without the employee's</p>
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¹ With the exception of public servants, domestic workers and seafarers who are covered by other Acts due to the nature of their work.

		written consent. Salary can be deducted for reasons such as (i) absence of work, (ii) damage or loss of goods or money, (iii) accommodation (with the employee's consent), (iv) amenities and services provided by the employer (with the employee's consent), (v) recovering advances, loans or overpaid salary.
Section 43	Annual leave	Section 43 will be repealed, with a new Section 88A inserted. Statutory entitlement to paid annual leave will be extended to every employee to whom the EA applies. At present, only employees who are covered under Part IV are entitled to statutory paid annual leave.
Section 88	Holidays	<p>Paid holidays are specified under Section 88. Parties may by agreement vary this statutory stipulation. Where an employee is required by his employer to work on any public holiday, Section 88 sets out the amount of salary payable by the employer.</p> <p>Section 88 will be amended to extend to every employee to whom the EA applies (other than an individual to whom Part IV applies), and who is required by the employer to work on a public holiday, the option of being given part of a day off on a working day, instead of a day off in substitution for that holiday, or an extra day's salary at the basic rate of pay.</p>
Section 89	Sick Leave	<p>Any employee who has served an employer for at least 3 months is entitled to paid sick leave (max 14 days) and hospitalisation leave (max 60 days).</p> <p>Section 89 will be amended to impose on the employer an obligation to bear or reimburse an employee the fees of any medical examination if the employee has served the employer for at least 3 months and is certified by the medical practitioner to be entitled to paid sick leave.</p>

Evidently, the abolishment of the salary cap on the eligibility of PME's to be afforded protection under the EA has extensive implications for both employers and employees.

Additional protection for more vulnerable employees

Additional protections under Part IV of the EA are currently available to a narrower section of employees: (1) workmen earning up to S\$4,500 per month, and (2) non-workmen (who are also non-PMEs) earning up to S\$2,500 per month.

With the amendments, the salary ceiling for the latter category of employees will be increased so as to capture a larger group (albeit not PMEs). In particular, the ceiling for non-workmen (who are also non-PMEs) will be revised upwards to S\$2,600 per month. It is worth noting that the salary cap for overtime pay will be revised upwards from S\$2,250 to S\$2,600 for non-workmen.

Provisions under Part IV remain *inapplicable* to PMEs.

Dispute Resolution

Presently, in cases involving wrongful dismissals, employees protected by the EA can seek redress before the Ministry of Manpower. However, for salary disputes, they are mediated at the Tripartite Alliance for Dispute Management and if unresolved, heard by the Employment Claims Tribunal.

With the amendments, the Employment Claims Tribunal would be empowered to hear wrongful dismissal claims.

We would also highlight that the proposed amendments have restated the definition of "dismissals", and the involuntary resignation of an employee would also be caught by the definition of "dismissal".

Employers should also note that the Employment Claims Tribunal can, among other things, order that an employee who has been dismissed without just cause or excuse be reinstated. This is significant as reinstatement is generally not a remedy that the civil courts would grant in an employment context.

Impact of amendments on employment contracts

With the passing of the above amendments to the EA, it is expected that many employment contracts for PMEs drawing more than S\$4,500 per month would have to be reviewed / revised, to ensure that the contractual terms comply with the requirements under the EA.

If you would like information and/or assistance on the above or any other area of law, you may wish to contact the partner at WongPartnership that you normally deal with or any of the following partners:



Jenny TSIN

Joint Head – Employment Practice

d +65 6416 8110

e [jenny.tsin](mailto:jenny.tsin@wongpartnership.com)

[@wongpartnership.com](mailto:jenny.tsin@wongpartnership.com)

Click [here](#) to view Jenny's CV.



Vivien YUI

Joint Head – Employment Practice

d +65 6416 8009

e [vivien.yui](mailto:vivien.yui@wongpartnership.com)

[@wongpartnership.com](mailto:vivien.yui@wongpartnership.com)

Click [here](#) to view Vivien's CV.

WPG MEMBERS AND OFFICES

- contactus@wongpartnership.com

SINGAPORE

-

WongPartnership LLP
12 Marina Boulevard Level 28
Marina Bay Financial Centre Tower 3
Singapore 018982
t +65 6416 8000
f +65 6532 5711/5722

CHINA

-

WongPartnership LLP
Beijing Representative Office
Unit 3111 China World Office 2
1 Jianguomenwai Avenue, Chaoyang District
Beijing 100004, PRC
t +86 10 6505 6900
f +86 10 6505 2562

-

WongPartnership LLP
Shanghai Representative Office
Unit 1015 Corporate Avenue 1
222 Hubin Road
Shanghai 200021, PRC
t +86 21 6340 3131
f +86 21 6340 3315

MYANMAR

-

WongPartnership Myanmar Ltd.
Junction City Tower, #09-03
Bogyoke Aung San Road
Pabedan Township, Yangon
Myanmar
t +95 1 925 3737
f +95 1 925 3742

INDONESIA

-

Makes & Partners Law Firm
Menara Batavia, 7th Floor
Jl. KH. Mas Mansyur Kav. 126
Jakarta 10220, Indonesia
t +62 21 574 7181
f +62 21 574 7180
w makeslaw.com

wongpartnership.com

MALAYSIA

-

Foong & Partners
Advocates & Solicitors
13-1, Menara 1MK, Kompleks 1 Mont' Kiara
No 1 Jalan Kiara, Mont' Kiara
50480 Kuala Lumpur, Malaysia
t +60 3 6419 0822
f +60 3 6419 0823
w foongpartners.com

MIDDLE EAST

-

Al Aidarous International Legal Practice
Abdullah Al Mulla Building, Mezzanine Suite 02
39 Hameem Street (side street of Al Murroor Street)
Al Nahyan Camp Area
P.O. Box No. 71284
Abu Dhabi, UAE
t +971 2 6439 222
f +971 2 6349 229
w aidarous.com

-

Al Aidarous International Legal Practice
Zalfa Building, Suite 101 - 102
Sh. Rashid Road
Garhoud
P.O. Box No. 33299
Dubai, UAE
t +971 4 2828 000
f +971 4 2828 011

PHILIPPINES

-

Zambrano Gruba Caganda & Advincula
27/F 88 Corporate Center
141 Sedeño Street, Salcedo Village
Makati City 1227, Philippines
t +63 2 889 6060
f +63 2 889 6066
w zglaw.com/~zglaw