

Employment Law Update

Changes to the Singapore Employment Act: What all employers need to pay attention to for compliance with these amendments

Overview

The upcoming changes to the Employment Act (“EA”) and other related legislations have made headline news since the Amendment Bill was first read in Parliament in October 2018. It has since been passed in Parliament in late November 2018 and slated to take effect from 1 April 2019.

The amendments cover several key areas: (i) extension of core provisions of the EA to protect all employees; (ii) extension of Part IV of the EA to protect more employees; (iii) enhancement of the employment dispute resolution framework; and (iv) certain improved protection of employee rights.

No more salary cap for professionals, managers and executives and what they are entitled to

If you are familiar with the current coverage of the Employment Act, you would note that professionals, managers and executives (“PME”) earning more than SGD\$4,500 are not protected under the EA. Accordingly, for such PMEs, most entitlements and terms of employment are determined by contract. For those PME earning SGD\$4,500 and below, only Part IV of the EA is not applicable to them. Part IV of the EA currently deals with hours of work, rest days, annual leave entitlements and payment of retrenchment benefit, amongst others.

With the upcoming amendments, all PMEs will be considered as employees covered under the EA, except for Part IV of the EA. However, Part IV itself is being amended and annual leave entitlements will be covered in a new section under Part X of the EA which will cover holidays, annual leave and sick leave entitlements. PMEs will therefore be entitled to a minimum of 7 – 14 days of annual leave, paid public holidays and sick leave, timely payment of salary and statutory protection against wrongful dismissal.

Other employees are given further protection under the EA

The salary cap for employees (other than workmen and PMEs) who are entitled to additional protection and benefits under Part IV of the EA, such as overtime and rest days, will be increased from SGD\$2,500 a month to SGD\$2,600 a month.

Expanded coverage of the Employment Claims Tribunal as administered by the District Court

As a recap, currently, an employee (covered under the EA) may bring a claim to the Ministry of Manpower (“MOM”) within 1 month from dismissal, if the claim is in relation to dismissal. On the other hand, if an employee (covered under the EA) wishes to bring a claim on a salary-related matter (whether statutorily or contractually arising), he/she can do so under the Employment Claims Tribunal (“ECT”) (in which mediation under the Tripartite Alliance for Dispute Management must first be conducted before it can proceed further). If the employee has left the company, the claim is to be submitted within 6 months from the date he/she left the company, while the claim may be submitted within 1 year if the employee is still in employment with the said company.

To provide a “one-stop service” for employment dispute resolution, the adjudication of wrongful dismissal claims will be shifted from MOM to ECT.

When dismissing or retrenching employees, employers must be prudent

The definition of “dismissal” under the EA is being expanded. Dismissal is therefore not restricted to the termination of a contract of service at the initiative of an employer, with or without notice and for cause or otherwise, but includes the resignation of an employee if the employee can show, on a balance of probabilities, that the employee did not resign voluntarily but was forced to do so because of any conduct or omission, or course of conduct or omissions, engaged in by the employer.

There will be a Tripartite Guidelines on Wrongful Dismissal (“Guidelines”), and this is being given force through statutory means. The ECT, when deciding any claim involving a wrongful dismissal dispute, must have regard to the Guidelines, and to calculate any compensation in accordance with any regulations made accordingly. Even the High Court, when deciding an appeal against an order made on a claim involving a wrongful dismissal dispute, must have regard to the Guidelines. The Guidelines are important as they would specify what constitutes as wrongful dismissal.

With respect to retrenchment, currently, employers with 10 or more employees must notify the MOM if 5 or more employees are retrenched within any 6-month period. However, once the amendments are in effect, employers must, if required by the Commissioner of Labour, to provide information on the retrenchment of any employee.

Check and balances in place for certain authorised deductions

Currently, section 27 of the EA provides for certain authorised deductions from an employee. With the amendments, an employee is able to withdraw his/her written consent for a deduction by giving written notice of the withdrawal to the employer at any time before the deduction is made; and the employee must not be penalised for withdrawing such a written consent. Such deductions include for instance, deductions for house accommodation supplied by the employer, deductions for such amenities and services supplied by the employer as well as deductions made with the written consent of the employee and paid by the employer to any cooperative society registered under any written law for the time being in force in respect of subscriptions, entrance fees, instalments of loans, interest and other dues payable by the employee to such society, amongst others.

Should you have any queries as to how this update may affect you or your organisation or require further information, please do not hesitate to email us.



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This article is intended to discuss the changes to the Employment law framework in Singapore, and it is not intended to be comprehensive nor should it be construed as legal advice.