

Changes to Employment Agency Regulatory Framework



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Objectives of Amendments

1. Tackle unlicensed and errant EAs
2. Raise professionalism and accountability of all stakeholders
3. Update provisions and processes
4. Increase flexibility to cater to different needs

Outline

1. Coverage
2. Licensing framework
3. Security deposit
4. Certification and registration
5. Fee cap
6. Fee refund
7. Minimum standards
8. Penalties and enforcement

Who is covered?

COVERED

- Entities and individuals carrying out EA work in Singapore
- Regardless whether entity or individual is based in Singapore or overseas
- Regardless whether the EA work is for jobs in Singapore or overseas
- EA work – Activities carried out to facilitate the placement of a worker with an employer. May include:
 - Communication with any worker for the purpose of assisting in job applications
 - Collation of biodata or resume of any worker to help secure employment
 - Submission of work pass application on behalf of employer or worker to MOM

Who is covered?

EXEMPTED

- List of exempted entities will be available at a later date
- Will exempt web-based job portals, job bulletin boards
 - Not actively involved in placement of workers with employers
 - Do not substantially influence outcome of employment terms/conditions

What's new?

- Licence issued to legal entities, not individual persons
- Removal of requirement for EAs to seek MOM's approval before placing PRC workers
- 2 types of EA licences
 - Comprehensive Licence and Select Licence

What's new?

- How do I know which licence my EA qualifies for?

Comprehensive Licence	Select Licence
Places all types of workers	Places <u>only</u> : <ul style="list-style-type: none">• Local workers in jobs earning mthly salary* of >\$7K• EP holders in jobs earning mthly salary of >\$7K

* Monthly salary is calculated using basic salary + fixed allowance

- Why \$7K?
 - To recognise the group of EAs that placed less vulnerable workers
 - Ensure a select group of EAs would qualify
 - To be reviewed in future

Differences between licences

- Apart from the type of placements allowed

	Comprehensive	Select
Certification	All EA personnel (includes key appt holders) are required to attain certification	EA personnel not required to attain certification
Security deposit	\$20,000 - \$60,000 depending on placement volume and track record	\$20,000

Similarities between licences

	Comprehensive	Select
Licence validity	3 years	
Licence application fee	\$400	
Licence issuance fee	\$100	
Registration	All EA personnel (incl key appt holders) are required to be registered \$160 for each EA personnel registration	

What do we need to do?

If licence expires before 1 Apr

- Licence will be renewed under current licensing framework
- Submit renewal applns by: 7 working days before expiry of licence, or 29 Mar 11, whichever is earlier

If licence expires on or after 1 Apr

- Licence will be renewed under new licensing framework, regardless when the renewal appln is submitted
- Submit renewal applns by: 7 working days before expiry of licence

How to renew: MOM will send renewal notification via email with instructions

What's new?

- EAs with Select Licence: \$20K
- EAs with Comprehensive Licence: \$20K - \$60K (see below)

	Attribute of CL EA	SD requirement
1	All new EAs within their 1 st year of operations, and other EAs which do not meet (2), (3) or (4)	\$60K
2	EAs that place 200 or less WP and S Pass holders in past 12 mths	\$40K
3	EAs that accumulated 3 or less demerit pts in past 12 mths	\$40K
4	EAs that meet both (2) and (3)	\$20K

What's new?

- SD requirement for each EA will be reviewed on a monthly basis
- MOM will notify EAs which are at the borderline
 - EAs may furnish a higher SD
- 'Placement volume':
 - Includes applications submitted for WP/S Pass holders even if EA did not personally source for the workers
 - Excludes renewal applications

What's new?

- If EAs cross the placement volume or demerit point benchmark and security deposit furnished is not enough:

Placement Volume	MOM will notify the EA and block Work Permit/S Pass applications, until higher SD is furnished.
Demerit Points	MOM will notify the EA and serve an order of suspension, that will be lifted when higher SD is furnished.

What do CL EAs need to do?

If licence expires before 1 Apr

- No change - existing SD framework applies

If licence expires on or after 1 Apr

- New SD framework applies
- Find out how much SD is required:
 - Check EA directory for placement volume and track record
 - Use self-assessment tool (will be made available from 1 Apr) to find out how much SD is required
- Furnish higher SD, in the form of a banker's guarantee (unchanged), if attributes are near the border and EA expects to cross the benchmark

What's new?

CERTIFICATION

- Certificate for Employment Intermediaries (CEI), replaces existing Certification for Employment Agencies (CEA)
- Course will start Apr 2011
- Course details available on MOM website from mid-Mar 2011 onwards
- Course duration:
 - Key appointment holders: 40 hours
 - Other EA personnel: 32 hours

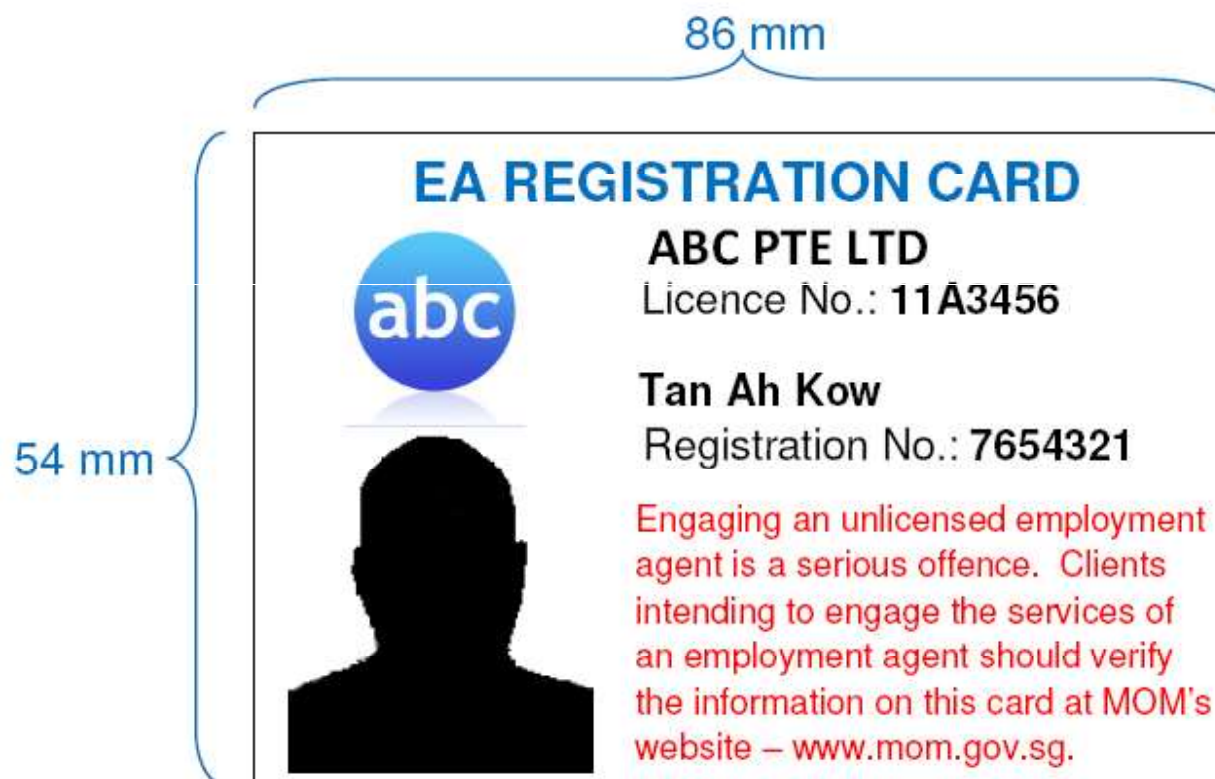
What's new?

REGISTRATION

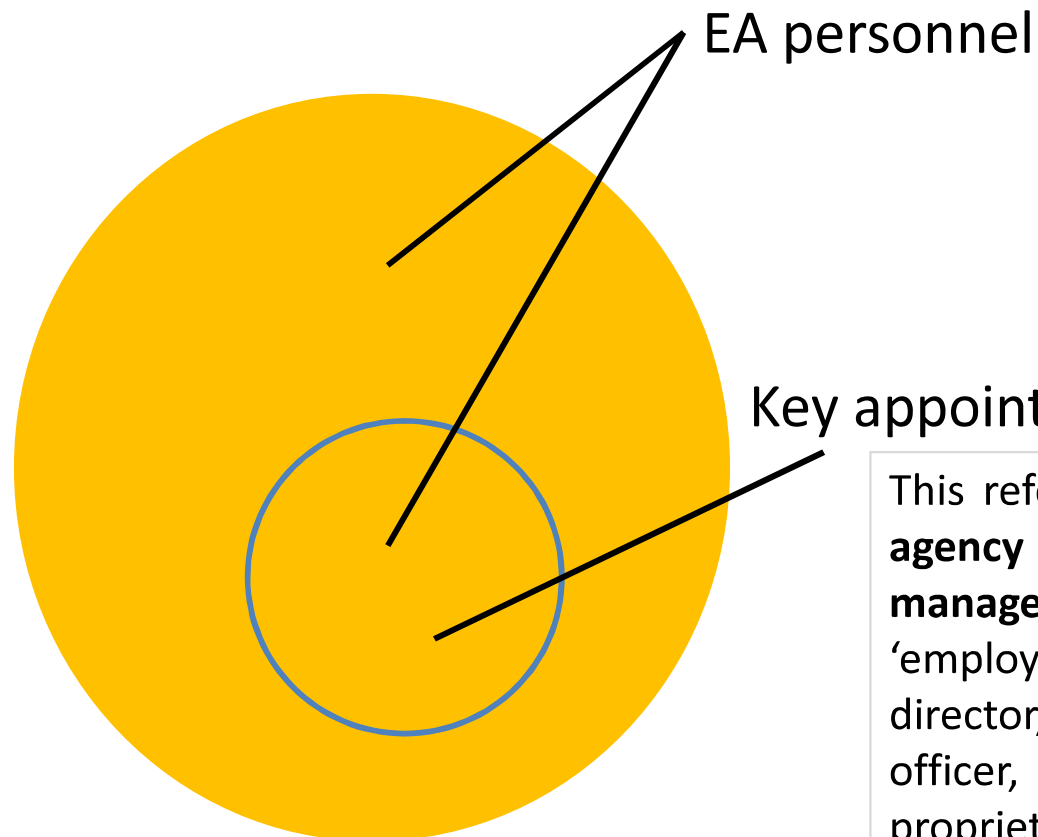
- All EA personnel performing EA work (local and foreign workers) must be registered with MOM
- EA work includes
 - Facilitation of the placement of any worker with an employer
 - Communication with any worker for the purpose of assisting in job applications
 - Collation of biodata or resume of any worker to help secure employment
 - Submission of any work pass application on behalf of an employer or worker to MOM
- EA to issue registration card based on MOM's specifications
- Can only work for and be registered under one EA at any point in time

What's new?

SAMPLE REGISTRATION CARD



Who needs to be certified and/or registered?



This refers to any person who is engaged, whether on a permanent, temporary or contractual basis, by the employment agency. **This also includes key appointment holders.**

This refers to **any person in the employment agency who has general control and management** of the administration of any 'employment agency work'. This includes any director, chief executive officer, chief financial officer, chief operating officer, partner, sole-proprietor or manager of the employment agency.

4. Certification and registration

Who needs to be certified and/or registered?

	Key appointment holders		Other EA personnel	
	Perform EA-related work	Do not perform EA-related work	Perform EA-related work	Do not perform EA-related work
Certification*	✓	✓	✓	✗
Registration	✓	✗	✓	✗

* This requirement does not apply to EAs with Select Licence

Who is prohibited from performing EA work?

Criteria	Key appointment holder	Other EA personnel
Undischarged bankrupt	Disqualified	-
Convicted of an offence involving dishonesty	Disqualified	-
Convicted of an offence involving human trafficking	Disqualified	Disqualified
Had been a director of or in management of an EA whose licence had been revoked	Disqualified	Disqualified

- Disqualified persons can obtain written approval from the Commissioner for Employment Agencies

When to register and attain CEI?

- All EA personnel must be registered before they are allowed to perform EA work
- Must attain CEI before they can be registered
- EAs can check if registration of an EA personnel is likely to be approved via a self assessment tool which will be available on MOM website at a later stage

Existing CEA holder/ previously exempted from CEA

- Only need to attend a bridging course
- Available from 1 Jun 2011 to 15 Jul 2011
- Details available later

When to register and attain CEI?

EA personnel from existing EAs

- Given up to 30 Jun 2011 to be registered
- Can continue to perform EA work during this period

Deadline for certification for persons who are registered on or before 30 Jun 2011*		
Existing EAs	Key appointment holders: By 31 Mar 2012	Other EA personnel: By 31 Mar 2014
New EAs (licences issued between 1 Apr 2011 and 30 Jun 2011	All EA personnel: By 30 Sep 2011	

* This requirement does not apply to EAs with Select Licence

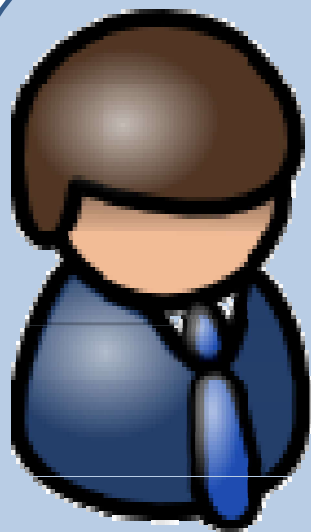
When to register and attain CEI?

Conditions for persons who applies to be registered on or after 01 Jul 2011 *		
All EAs (regardless of licence issuance date)	Key appointment holders: Must attain CEI before registration	Other EA personnel: Must attain CEI before registration EAs may screen their EA personnel with MOM prior to registration and will be given 1 month to attain CEI

* This requirement does not apply to EAs with Select Licence

- It is a requirement for all key appointment holders to attain CEI before an EA licence can be granted

4. Certification and registration



Mr Tan
Manager (key
appointment holder)
of ABC Employment
Agency
(Comprehensive
licence issued on
30 Dec 2010)

Case Study 1

Submits registration application on 30 Apr 2011 (on or before 30 Jun 2011).

Allowed to register before attaining CEI? YES

Why? Mr Tan registered before 30 Jun 2011

Deadline for attaining CEI – 31 Mar 2012, since Mr Tan belongs to an existing EA.

If Mr Tan cannot meet CEI deadline: Will be automatically deregistered and will not be allowed to perform employment agency work. If he applies to be registered again, he will need to first attain the CEI.

If Mr Tan had submitted his registration application on or after 01 Jul 2011: He would be required to first attain the CEI before his registration would be approved.

4. Certification and registration



Ms Lina Ng
Sales executive
Works in XYZ
Employment Agency
(Comprehensive
Licence issued on
03 Apr 2011)

Case Study 2

Submits registration application on 30 Apr 2011.

Allowed to register before attaining CEI? YES

Why? Ms Lina Ng applied to be registered before 30 Jun 2011

Deadline for attaining CEI – 30 Sep 2011, since Ms Ng belongs to a new EA (licence issued on/after 1 Apr 2011)

If Ms Ng cannot meet CEI deadline: Will be automatically deregistered on 1 Oct 2011 and will not be allowed to perform employment agency work. If she applies to be registered again, she will need to first attain the CEI.

If Ms Ng had submitted her registration application on or after 01 Jul 2011: She would be required to first attain the CEI before her registration would be approved.

How to register and attain CEI?

Registration

- EAs are responsible for applying to register their personnel with MOM
- Register via the Online Business Licensing System at licences.business.gov.sg
- Need to attach photo of EA personnel to be registered
- Non-refundable, once-off fee of S\$160 each
- If EA personnel moves to another EA, the EA personnel will need to be de-registered and registered under the new EA.

CEI

- More information available on MOM website from mid-Mar 11

What's new?

Fees charged to employers

- No cap on the fee that EAs may charge employers for the services provided

What's new?

Fees charged to workers

- Fees charged should not be more than one month's worth of salary per year for the duration of the approved work pass or employment contract, whichever is shorter
- Subject to a maximum of 2 months' worth of salary
- Salary is defined as basic salary plus fixed allowance
- *EAs must issue receipts for all monetary transactions with the workers*

Coverage of fee cap

- All agency fees collected by EAs in Singapore, even if they are collected from workers via an overseas EA
- Will not cover agency fees retained by overseas EA
- Items not subjected to fee cap
 - expenses incurred overseas e.g. costs of training, medical check-ups overseas
 - travel expenses to Singapore
- Certain costs, such as the costs of training or medical check-ups conducted in Singapore, must continue to be borne by the employer as mandated in existing legislation

Example – Foreign worker



Foreign
worker/
Foreign
domestic
worker

One year work permit

Monthly salary of \$900

Maximum agency fees that EA
can charge the worker: \$900

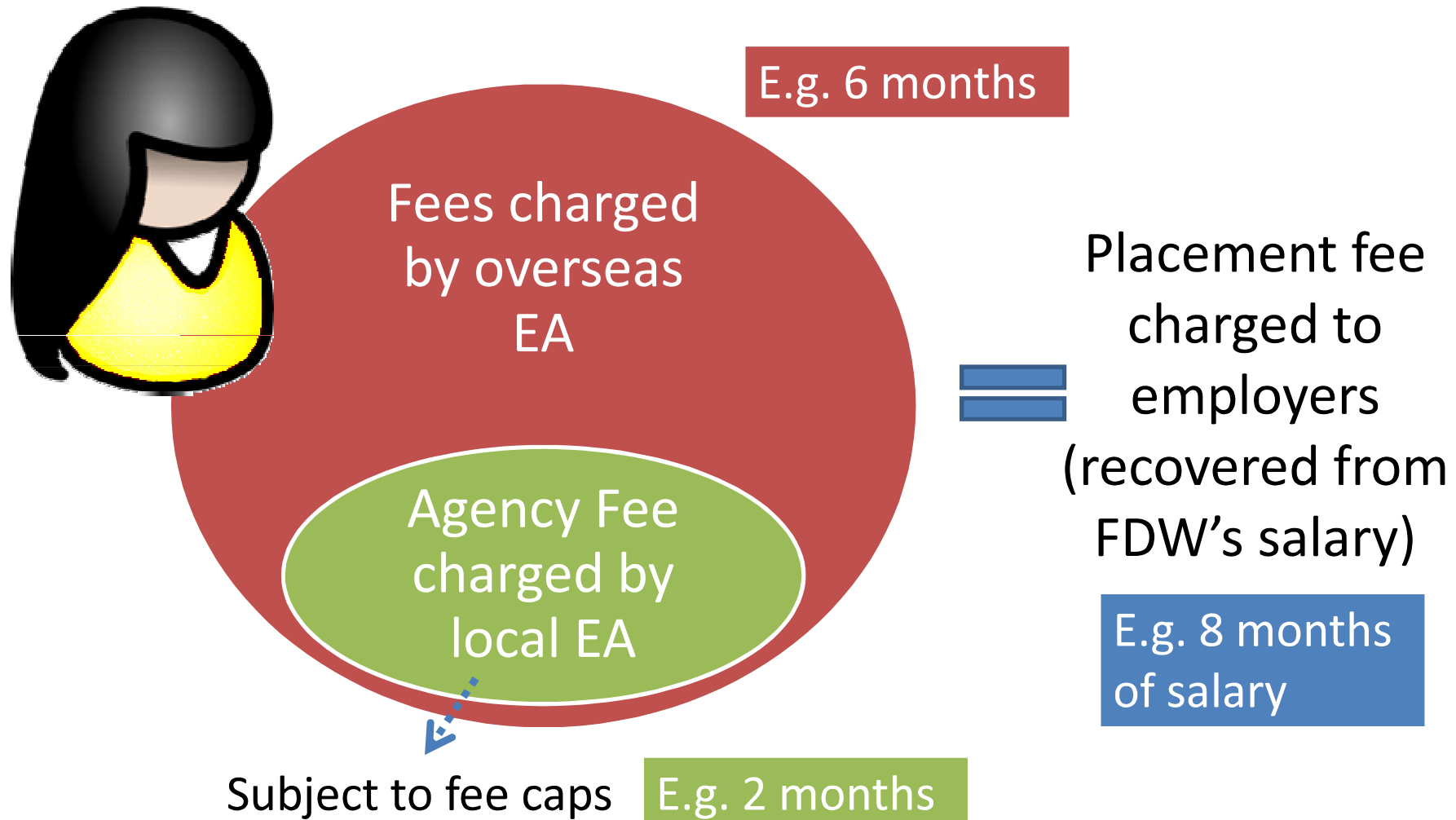
Two years work permit

Monthly salary of S\$900

Maximum agency fees that EA
can charge the worker: \$1,800
(\$900 x 2)

5. Fee cap

Example – Foreign domestic worker



Example – Local worker



Local worker

Permanent staff with no fixed contract term

Monthly salary of \$900

Maximum agency fees that EA can charge the worker: \$1,800 (maximum of 2 months' salary)

What's new?

- EAs must refund at least 50% of the agency fees collected from the worker if employment is prematurely terminated within 6 months of commencement of employment
- EA need not refund the fees collected if the worker requested for the termination or if the worker absconds
- Fee refund to be made within 7 working days of termination of employment or before the foreign worker is repatriated, whichever is earlier
 - EAs to ensure that employers notify them whenever there is a termination of the workers (e.g. include in service agreements with employers)

Example – Foreign worker



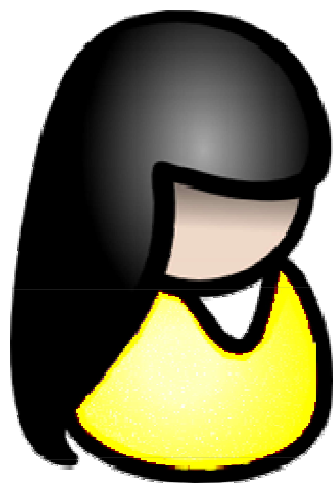
**Foreign worker on 2
years work permit
Monthly salary of
\$900**

Maximum agency fees that EA can charge the worker: \$1,800 (\$900 x 2)

If worker is terminated after 4 months of employment, EA to refund at least \$900 (50% of fees collected)

If worker is terminated after 1 year of employment, no refund

Example – Foreign domestic worker



**Foreign domestic
worker on 2 years
work permit
Monthly salary of
\$400**

Maximum agency fees that EA can charge the worker: \$800 (\$400 x 2)

If worker is transferred to another employer (2 years work permit and monthly salary of \$400) after 2 months of employment,

- EA to refund at least \$400 (50% of fees collected under the first employer)
- EA can collect up to \$800 (\$400 x 2 for employment under the second employer)

Example – Local worker



Local worker
Monthly salary of
\$1,000

Employment contract of 3 mths
Maximum agency fees that EA
can charge the worker: \$250
($3/12 * \$1,000$)

If worker is terminated after 2
months of employment, EA to
refund at least \$125 (50% of fees
collected).

If worker finishes the full 3
months contract, no refund.

What's new?

From Accreditation Framework

- EAs must be clear to their clients about their dispute resolution mechanism
- EAs that place FDWs will be required to use the standard service agreement between the employer and EA
- EAs are encouraged to facilitate the use of the standard employment contract between the employer and FDW
- Accreditation will no longer be mandatory

What's new?

- Introduction of new offences
- More enforcement options
- Enhancement of penalties for existing offences

Key new offences

- In addition to taking action against the licensee, EA personnel involved in the commission of any offence will also be held personally liable
- Offence for EAs to submit work pass applications on behalf of unlicensed EAs, or EAs who have been directed not to make such work pass applications (e.g. EAs whose licences are suspended)
 - Penalty: similar to that of operating an unlicensed EA
- Offence for employer to engage worker through an unlicensed EA
 - Penalty: \$5,000 fine for each worker engaged

New enforcement options

Possible enforcement actions

- Warn
- Issue demerit points
- Revoke licence (expanded circumstances where licences can be revoked e.g. dormant EAs)
- Offer composition fines
- Prosecute
- Suspend licence (new)
- Forfeit security deposits even when licences are not revoked (new)

Key enhanced penalties

- Any person who operates an EA without a valid licence will face a maximum fine of \$80,000 and/or 2 years imprisonment. For subsequent offences, the maximum penalty will be doubled - \$160,000 fine and/or 4 years imprisonment
- EAs that provide false information to any officers authorized under the EA Act will face a fine of up to \$15,000 and/or 12 months imprisonment

THANK YOU