

Changes to the Employment Agency Regulatory Framework

A brief guide for Employment Agencies
Last updated 9 February 2011



**MINISTRY OF
MANPOWER**

What is the new Employment Agency Regulatory Framework?

The Ministry of Manpower will be introducing a new regulatory framework for employment agencies to raise recruitment standards and build more confidence in the professionalism of the industry. The new framework will come into force on **1 April 2011**.

Any person or business who intends to operate an employment agency will need to first obtain an employment agency **licence** from the Ministry of Manpower and to put up a **security deposit**.

Under the new framework, key appointment holders in an employment agency and anyone performing employment agency work needs to attain **certification**.

In addition, anyone who performs employment agency work must be **registered** with MOM and be issued with a standardised registration card.

Employment agencies may charge workers and employers a fee, as long as they do not exceed the **fee caps** stated in the Employment Agency Rules. Employment agencies are liable to **refund a portion of the fee** collected from the workers in the event that they are terminated within first six months of their employment.

This guide will cover changes to the following aspects:

- **Licensing framework**
- **Security deposit**
- **Certification and registration**
- **Fee caps**
- **Fee refund requirement**
- **Penalties and enforcement**

WHO IS COVERED?

The new Act will regulate all entities and individuals carrying out employment agency work in Singapore, whether this is for jobs in Singapore or overseas.

Under the Employment Agencies Act, 'employment agency work' refers to activities to facilitate the placement of a worker with an employer, which may include

- (a) **communication** with any worker for the purpose of assisting in job applications;
- (b) collation of the **biodata or resume** of any worker to help secure employment; or
- (c) submission of any **work pass application** on behalf of an employer or worker to the Ministry of Manpower.

WHO IS EXEMPTED?

There are some entities that will be exempted from the Employment Agencies Act because they are not actively involved in the placement of workers with employers or they do not substantially influence the outcome of employment terms and conditions. These include web-based job portals and job bulletin boards.

More details on the list of exempted entities will be available at a later date.

LICENSING FRAMEWORK

WHAT'S NEW?

Under the new licensing framework, there will be two types of employment agency licences
 - Comprehensive Licence and Select Licence.

Whether an applicant should apply for a Comprehensive License or a Select License will depend on the type of workers they intend to place.

	Comprehensive Licence	Select Licence
Type of workers that the employment agency is allowed to place	No restriction on the types of workers placed	May only place: <ul style="list-style-type: none"> Local workers in jobs earning a monthly salary of more than \$7,000 Employment Pass holders in jobs earning a monthly salary of more than \$7,000
Licence validity	3 years	
Licence application fee	\$400	
Licence issuance fee	\$100	
Certification (see section on "Certification")	All employment agency personnel (including key appointment holders) are required to attain certification.	Employment agency personnel not required to attain certification
Registration (see section on "Registration")	All employment agency personnel (including key appointment holders) are required to be registered.	
Security deposit (see section on "Security Deposit")	\$20,000 to \$60,000 depending on placement volume and track record	\$20,000

WHAT DO EMPLOYMENT AGENCIES NEED TO DO?

For existing employment agencies

If the licence expires before 1 April 2011, the licence will be renewed under the current licensing framework. All renewal applications should be submitted by **29 March 2011 or 7 working days before the expiry of the current licence, whichever is earlier**. The renewed licence will be valid for one year from date of issuance.

If the licence expires on 1 April 2011 or later, the licence will be renewed under the new licensing framework. Employment agencies will choose between the Comprehensive Licence or the Select Licence.

MOM will send employment agencies a renewal notification via email two months before the licence expiry. The notification will include instructions on how to renew the licence.



If the employment agencies do not receive the renewal notification, they can request for notification to be re-sent using the following request note from MOM's website.

<http://www.mom.gov.sg/Documents/services-forms/Safety%20and%20Health/forms%20-%20Request%20note%20to%20re-send%20rn.pdf>

MOM > Foreign Manpower > Employment Agencies > License Renewal (Existing framework)

For those intending to start an employment agency

All applications for an employment agency licence received **before 28 February 2011** will fall under the current licensing framework.

From **1 March 2011 – 31 March 2011**, MOM will not accept any new application. Licence applications received **on or after 1 April 2011** will fall under the new licensing framework.

CERTIFICATION AND REGISTRATION

WHAT'S NEW?

We will be introducing a new certification course called the Certificate for Employment Intermediaries (CEI), which will replace the existing Certification for Employment Agencies (CEA) course. There are two types of courses, a 40-hour course for key appointment holders and a 32-hour course for other employment agency personnel.

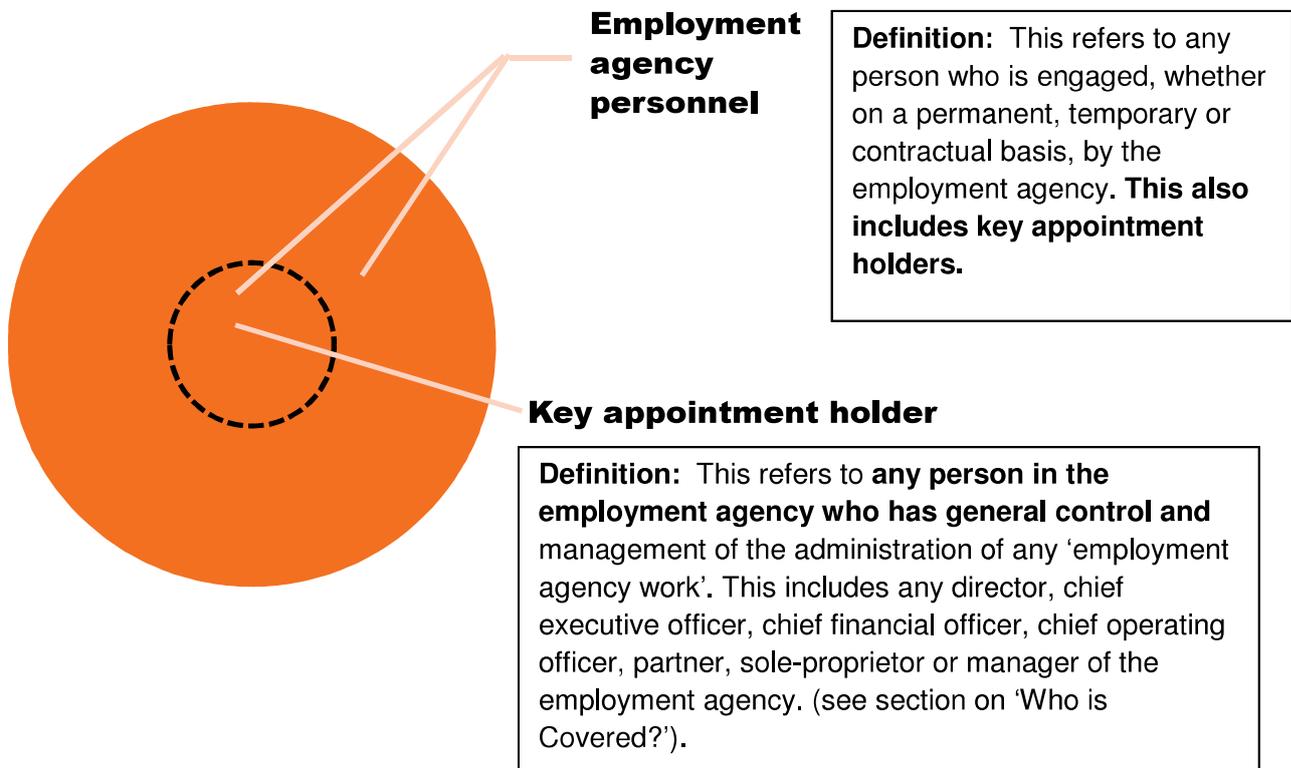
In addition, all employment agency personnel must be registered with MOM and be issued with a standardised registration card. They can only work for and be registered under one employment agency at any point in time.

Who needs to be certified or registered?

All employment agencies need to ensure the following persons are certified and / or registered with MOM.

	Key appointment holders		Other employment agency personnel	
	Perform EA-related work	Do not perform EA-related work	Perform EA-related work	Do not perform EA-related work
Certification*	√	√	√	-
Registration	√	-	√	-

Note: *This requirement does not apply to employment agencies with the Select Licence.



Who is prohibited from performing employment agency work?

The following categories of persons will be prohibited from acting as key appointment holders and / or other employment agency personnel unless they obtain written approval from the Commissioner for Employment Agencies. All requests for written approval should be submitted to Commissioner for Employment Agencies via mom_fmmd@mom.gov.sg

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

WHAT DO I NEED TO DO?

When to attain the CEI and be registered

All employment agency personnel must be registered before they are allowed to perform employment agency work. Before they can be registered, they must first attain the CEI. The course for key appointment holders will cover key legislation such as the Employment Act, Employment Agencies Act, Employment of Foreign Manpower Act, and Companies Act. The course for other employment agency personnel will only cover some of those key legislation relevant to their work.

Anyone who has already attained the CEA or who had been exempted from attaining the CEA may attend a bridging course to be certified. This bridging course will be made available between 1 Jun 2011 and 15 July 2011. (More details will be made available at a later date.)

To help the industry adjust to the new registration and certification requirement, all personnel from existing employment agencies **can continue to perform employment agency work** and will be given up to 30 June 2011 to be registered. All personnel registered with MOM on or before **30 June 2011** will be given the following deadlines to attain the CEI.

	Deadline for certification for persons who are registered on or before 30 June 2011 *	
Existing employment agencies	Key appointment holders: By 31 March 2012	Other employment agency personnel: By 31 March 2014
New employment agencies (licences are issued between 1 April 2011 and 30 Jun 2011)	All employment agency personnel: By 30 September 2011	

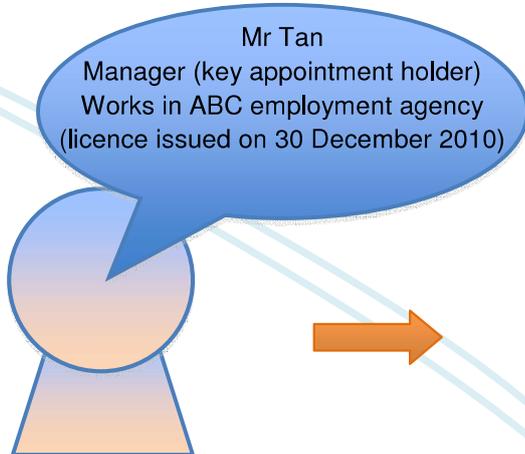
Note: *This requirement does not apply to employment agencies with the Select Licence.

All employment agencies who attempt to register their personnel on or after 1 Jul 2011 will be subjected to the following conditions.

Conditions for persons who attempt to be registered on or after 1 Jul 2011 *		
All employment agencies (regardless of licence issuance date)	Key appointment holders: Must attain the CEI before registration.	Other employment agency personnel: Must attain the CEI before registration.
		Employment agencies may screen their personnel with MOM prior to registration and will be given one month to attain CEI.

Note: *This requirement does not apply to employment agencies with the Select Licence.

**It is a requirement for all key appointment holders to be certified in order for an employment agency licence to be issued.

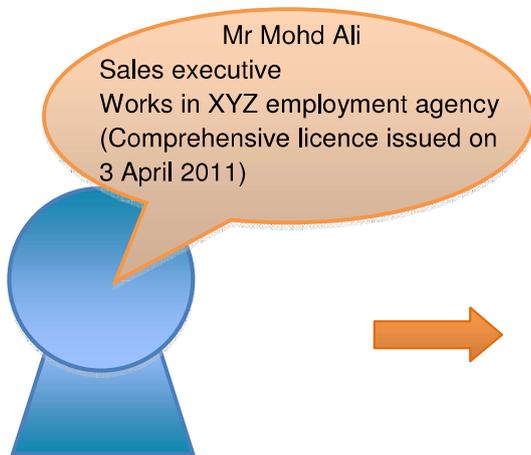


Submits registration application on **30 April 2011**.
 Since Mr Tan is a key appointment holder with an existing employment agency and registered before 30 June 2011, he is allowed to first register before attaining CEI. Upon approval of Mr Tan's registration, his profile will appear on the Employment Agency Directory on MOM's website.

He will have until **31 March 2012** to attain the CEI. If he does not attain the CEI by 31 March 2012, he will be automatically deregistered on 1 April 2012 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 after 30 June 2011, he would be required to first attain the CEI before his registration would be approved.



Submits registration application on **30 April 2011**.
Since Mr Mohd Ali is an EA personnel (non-key appointment holder) working with an employment agency whose licence was issued after 1 April 2011 and registered before 30 June 2011, he will be allowed to first register before attaining CEI. Upon approval of Mr Mohd Ali's registration, his profile will appear on the Employment Agency Directory on MOM's website.

He will be given until **30 September 2011** to attain the CEI. If he does not attain the CEI by 30 September 2011, he will be automatically deregistered on 1 October 2011 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 Mohd Ali had submitted his registration application after 30 June 2011, he would be required to first attain the CEI before his registration would be approved.

How to be registered

All employment agencies are responsible for applying to register their personnel with MOM via the Online Business Licensing System at licences.business.gov.sg. They will be prompted to attach a photo of the personnel they wish to register. For each application, they will be required to pay a non-refundable fee of \$160.

More information on how to be registered will be made available at a later date.

How to attain the CEI

More information on how to attain the CEI will be made available at a later date.

SECURITY DEPOSIT

WHAT'S NEW?

The security deposit amount that will be required of employment agencies will vary. Those that do not provide sufficient security deposit will not be allowed to submit any new work pass applications.

- Employment agencies with a Select Licence will be required to provide a \$20,000 security deposit.
- Employment agencies with a Comprehensive Licence will be required to provide a security deposit of between \$20,000 and \$60,000.

	Attribute of EA	Security Deposit Requirement
1	All employment agencies with a Comprehensive Licence, unless they meet (2),(3) or (4)	\$60,000
2	Employment agencies that placed 200 or less Work Permit and S Pass holders in past 12 months	\$40,000
3	Employment agencies that accumulated 3 or less demerit points in the past 12 months	\$40,000
4	Employment agencies that meet both (2) and (3)	\$20,000

All new employment agencies with a Comprehensive Licence will be required to provide a \$60,000 security deposit. The security deposit amount will be reviewed after 12 months of operations based on their placement volume and track record as shown above. Thereafter, it will be reviewed on a monthly basis.

All existing employment agencies which renew their licences on or after 1 April 2011 will be required to provide a security deposit amount depending on placement volume and track record. The security deposit amount required from them will subsequently be reviewed on a monthly basis.



To check the placement volume and demerit points of an employment agency, please visit the Employment Agency Directory at www.mom.gov.sg/eadirectory.

FEE CAP

WHAT'S NEW?

Employment agencies may charge workers and employers a fee, as long as they do not exceed the fee caps stated in the Employment Agency Rules. From 1 April 2011, these fee caps will be revised.

Fees charged to employer

There will not be a cap on the fee that employment agencies may charge employers for the services provided.

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. This is subject to a maximum of two months' worth of salary. *Employment agencies must issue receipts for all monetary transactions with the workers.*

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.

Coverage of fee cap

The fee cap will cover all agency fees collected by employment agencies in Singapore, even if they are collected from workers via an overseas employment agency. The fee cap will not cover the portion of agency fees collected and retained by overseas employment agencies. Items which will not be subjected to the fee cap include expenses incurred overseas such as costs of training, medical check-ups overseas and travel expenses to Singapore.

Example involving a foreign worker

A foreign worker is granted a Work Permit to work for one year in Singapore for a monthly salary of \$900. He should only be charged up to a maximum of \$900 by the employment agency in Singapore.

Example involving a local worker

A local worker is placed in a job as a permanent staff with no fixed contract term. His monthly salary is \$900. He should only be charged up to a maximum of \$900 x 2 months = \$1,800 by the employment agency in Singapore.

FEE REFUND REQUIREMENT

WHAT'S NEW?

Employment agencies must refund 50% of the agency fees collected from the worker if the employer terminates the worker within six months of employment. This fee refund will not apply in situations where the worker is the one who terminates the employment contract instead.

WHO'S ELIGIBLE?

Only workers are entitled to a fee refund.

WHAT DO EMPLOYMENT AGENCIES NEED TO DO?

We advise employment agencies to ensure that employers notify them whenever there is a termination of the workers placed with the employers. For example, employment agencies may include in their service agreements with employers a provision requiring such notification. This will help employment agencies ensure they do not inadvertently breach the regulations by failing to provide refunds.

PENALTIES AND ENFORCEMENT

WHAT'S NEW?

From 1 April 2011, we will be tightening our enforcement against errant and unlicensed employment agencies. These measures include introducing new offences, increasing our enforcement options and enhancing the penalties for existing offences.

New key offences

Currently, licensees are taken to task for offences committed under the Employment Agencies Act. Under the new regulatory framework, in addition to taking action against the licensees, all employment agency personnel involved in the commission of any offence will also be held personally liable.

It will also be an offence for employment agencies submit work pass applications on behalf of unlicensed employment agencies. It will also be an offence to submit work pass applications on behalf of employment agencies who have been directed not to make such work pass applications by the Commissioner for Employment Agencies. These offences will warrant a maximum penalty that is similar to that of operating an unlicensed employment agency.



To check whether an employment agency is licensed, please visit the Employment Agency Directory at www.mom.gov.sg/eadirectory.

New enforcement options

Currently, MOM has the power to warn, issue demerit points, revoke licences, offer composition fines for some offences, and prosecute employment agencies. We choose to utilize various enforcement actions against errant employment agencies depending on the gravity of the offence.

From 1 April 2011, MOM will also be allowed to suspend licences, forfeit security deposits even when the licences are not revoked, and offer composition fines for all offences. This will allow us to ensure the enforcement action will be appropriate for the severity of the offence.

Key enhanced penalties

Employment agencies that operate without a valid licence will face a maximum fine of \$80,000 or 2 years' imprisonment, or both. For subsequent offences, the maximum fine will be doubled - \$160,000 or 4 years' imprisonment, or both.

Employment agencies that provide false information to any officers authorized under the Employment Agencies Act, will face a fine of up to \$15,000 or 12 months imprisonment, or both.

Ministry of Manpower
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The information provided in this guide is intended to provide you with a guide to the changes to the Employment Regulatory Framework. It is written in general terms and is not a complete or authoritative statement of the law. If in doubt, please contact the Ministry of Manpower.