



## P R E S S   R E L E A S E

### Annex A

#### **SUMMARY OF RESPONSES TO KEY FEEDBACK FROM PUBLIC CONSULTATION ON PROPOSED AMENDMENTS TO EMPLOYMENT ACT (19 November 2012 – 11 January 2013)**

1. In November 2012, the Ministry of Manpower (MOM) invited members of the public to provide feedback on proposed amendments to the Employment Act (EA), via the REACH Online Consultation Portal ([www.reach.gov.sg](http://www.reach.gov.sg)). The proposed amendments seek to ensure that the Act remains relevant to Singapore's changing workforce profile.
2. At the close of this 8-week public consultation exercise, a total of 81 written comments were received from stakeholders such as employers, human resource (HR) professionals, employees as well as non-governmental organisations (NGOs)<sup>1</sup> (refer to **Appendix 1** for summary of feedback). Feedback was also obtained through several consultation platforms, besides email and written channels. This included a direct engagement during a Townhall session<sup>2</sup> chaired by Acting Manpower Minister Tan Chuan-Jin on 21 November 2012 and various smaller group sessions with stakeholders. The proposals were further subjected to intense deliberation among employers, unions and the government.
3. **This paper summarizes the key feedback received and the negotiated outcomes reached in our consultation with the labour movement led by the National Trades Union Congress (NTUC), and employers led by the Singapore National Employers Federation (SNEF).** The general thrust of the changes seeks to provide better protection for more workers, while balancing this by granting employers' flexibility to implement these changes.

#### **(A) Better Protection for More Workers**

4. **To cover more employees, particularly on provisions relating to hours of work, rest days and annual leave.**<sup>3</sup> Respondents welcomed extending the coverage of the EA by adjusting the salary threshold of non-workmen in line with salary increases

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<sup>1</sup> E.g. Transient Workers Count Too (TWC2) and Association of Women for Action and Research (AWARE).

<sup>2</sup> The Townhall session was attended by about 70 participants, comprising a mix of employer representatives, unionists and members of the public.

<sup>3</sup> Currently, workmen earning up to \$4,500 and non-workmen earning up to \$2,000 are covered under Part IV of the EA which relates to hours of work, rest days and annual leave.



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in recent years. Given the shift in the nature of jobs today, most respondents, including HR professionals, supported removing the demarcations between 'workmen' and 'non-workmen' in the longer term. This move would also make the administration of the law clearer. Employers, however, were concerned that any adjustments in salary thresholds might increase business costs.

5. We have considered the feedback and will include more non-workmen for working hours-related protection. This refers to the protection against excessive working hours and the right to rest days and to claim overtime (OT) payment. **We will therefore raise the salary threshold of non-workmen from \$2,000 to \$2,500 in line with the general increase in salary levels. However, we will hold the salary threshold of workmen constant at \$4,500.** Over time, this will allow the salary threshold of non-workmen to catch up gradually with workmen. In the longer term, this will then allow us to remove the demarcation between these two groups of workers.

6. Some respondents called for MOM to include domestic workers under the EA. We considered this carefully but decided not to do so. Given the personalised nature of domestic work, it would be difficult to regulate their employment conditions. Foreign domestic workers (FDWs), which form the bulk of our domestic workers, are also already protected under the Employment of Foreign Manpower Act (EFMA) which requires employers to provide for the workers' well-being, safety, accommodation, and salary payments. The EFMA was just revised last year to give the Government greater powers to undertake enforcement action against errant employers, errant foreign workers and syndicates. A second round of EFMA consultations will also take place later this year to better ensure the well-being of workers as well as achieve an equitable balance of rights and responsibilities between employers and workers.

7. **To extend more protection to professionals, managers and executives (PMEs).**<sup>4</sup> A majority of respondents recognised that PMEs make up a significant and growing proportion of our workforce<sup>5</sup>. They see the need to accord more protection to this group, especially the more junior PMEs. Views were however mixed as to the extent and scope of protection. For example, some respondents felt that PMEs should be accorded all protections including overtime payments. Employers, however, felt that working hours-related provisions were not relevant to PMEs whose performance is

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<sup>4</sup> Today, PMEs earning up to \$4,500 are accorded only salary protection and cases involving salary claims can be adjudicated before the Commissioner for Labour.

<sup>5</sup> Generally, PMEs are employees with executive and supervisory functions including the authority to influence or make decisions on issues such as recruitment, discipline, termination of employment, assessment of performance and reward, or involvement in the formulation of strategies and policies of the enterprise, or the management and running of the business. They also include professionals with relevant education and specialised knowledge and whose employment terms are comparable to those of executives and managers.



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evaluated based on work outcomes rather than time expended. Some respondents further highlighted the diverse nature of the PME group, which ranged from junior executives to experienced senior personnel. Every sub-group had different needs. Employers therefore needed greater flexibility in their HR practices.

8. **We took into account respondents' views and will extend more protection to junior PMEs earning up to \$4,500. This means that in addition to salary protection currently, they will also be protected under the general provisions of the EA (for example, protection against unfair dismissal and sick leave benefits).**

### **(B) Flexibility for Employers**

9. **To balance rights and responsibilities.** Against the backdrop of better protection for more workers, respondents also generally acknowledged that greater flexibility should be accorded to employers in the implementation of some of these changes.

10. One example is OT payments. To help employers manage costs, we will cap the amount of OT payable to non-workmen at the salary level of \$2,250, even as we raise their salary threshold to \$2,500. For example, if a non-workman earns \$2,400, he will now be able to claim OT pay where he previously would not have been able to. However, his OT pay would be calculated based on the \$2,250 cap, even though he earns more than that (refer to **Appendix 2** for illustrations).

11. Another example pertains to PMEs. In wanting to extend the general provisions to junior PMEs such as unfair dismissal, respondents recognised the need to put in place some safeguards to deter frivolous claims which could be abused and which would impose a drag on businesses. Ideas included introducing an administrative fee for PMEs to lodge a complaint; and/or imposing a qualifying service period. **Therefore, as we extend unfair dismissal protection to junior PMEs, we will also set a qualifying service period of one year for these PMEs before they are eligible to seek redress. This is a reasonable period for employers to assess the suitability of the PMEs.**

12. Some respondents also felt that employers should be given the flexibility to provide time-off in-lieu of payment to PMEs for work done on public holidays because it is difficult and impractical to determine how employers should compensate them given the flexible nature of PME work. **We agree and will allow employers to grant time-off in-lieu for PMEs if they are required to work on public holidays, subject to mutual agreement. In the absence of an agreement, employers will have to grant at least half a day off in-lieu.**



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### (C) Other Specific Measures to Improve Employment Standards

13. **To minimise salary disputes.** There was strong support for payslips for all employees as a basic employment right, and for this to be made mandatory. Respondents believed that providing payslips and having proper salary records is a basic employment practice that will help both employees as well as employers in the unfortunate event of a salary dispute. Employers highlighted, however, that some smaller companies might not have the systems in place to administer issuance of payslips. **We will therefore implement mandatory payslips, but will provide some lead time for employers, especially SMEs, to adjust.**

14. **To safeguard employees' salaries.** As salary protection constitutes the most basic employment protection, respondents were generally supportive of measures that prohibit unauthorised deductions. However, HR professionals cautioned that the proposal to introduce additional limits for deductions for accommodation, amenities and services might inadvertently create administrative rigidities for companies.

15. **We have weighed these differing views very carefully. Our intent remains to protect low-wage employees from errant employers who make excessive deductions. We will introduce a 25% sub-cap for deductions for accommodation, amenities and services within the existing 50% limitation for all authorised deductions.**

16. Employers also noted that the proposal for employers to show proof of loans and advances before deductions are allowed might unintentionally discourage companies from providing loans to employees at their request, to help them tide over financial difficulties. As the onus is already on employers to show proof of these loans and advances in the event of a dispute, we therefore accepted the feedback that there was no need for any additional requirements.

17. **To reduce non-eligibility period for retrenchment benefits.** Respondents were generally supportive of the proposal to reduce the current 3-year non-eligibility period during which an employee is not eligible to claim retrenchment benefits. **After considering the views, we have decided to reduce this minimum service period to 2 years, in line with shorter employment tenures.**

18. **To review employers' liability in situations of cosmetic consultations and procedures.** Some HR professionals proposed that employers should be exempted from granting paid sick leave and bearing the medical examination expenses of employees who undergo cosmetic consultations and procedures which are optional and



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not medically necessary. Other respondents found it unnecessary to mandate this as it is not a common practice. To maintain the balance between the responsibilities of employers and employees, we will make it clear that employers are not required to provide paid sick leave and bear medical examination expenses in respect of cosmetic consultations and procedures which are not medically necessary.

### **OTHER FEEDBACK & NEXT PHASE**

19. There were other good suggestions received pertaining to: (i) protection for employees in non-traditional work arrangements such as contract workers or self-employed persons; and (ii) mechanisms to facilitate employer-employee dispute resolution. These will require more in-depth study and we are committed to look into these areas in Phase 2 of our review of the EA, which will begin later this year.

20. Other suggestions that were considered carefully but not taken up include a suggestion to introduce longer notice periods under the EA in the event of a termination so that affected employees would have more time to make plans. Apart from workplace rigidities, we are also mindful of counter-arguments that such proposals should apply both ways, i.e. a longer notice period imposed on employers should be similarly applied to employees who wish to resign. Other feedback pertaining to child/family leave entitlements have been taken up separately under the Marriage & Parenthood (M&P) review.

### **CONCLUSION**

21. We would like to thank all stakeholders and members of the public who participated in the consultation exercise. They have helped to strengthen our policy review process, and resulted in better outcomes for Singaporeans. We assure respondents that we had considered all suggestions. We had to strike a balance between protecting workers and addressing employers' concerns that ultimately affect the employability of the Singapore workforce. We believe that the final outcome achieves such a balance. We welcome further feedback on the issues in Phase 2 of the EA review later this year.



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APPENDIX 1

**Summary of Feedback Received**

| Category   | Feedback/Proposal   |
|--|---|
| <b>Coverage of the Employment Act</b><br><br><i>( Taken into consideration in Phase 1 of the EA review)</i>    | <ul style="list-style-type: none"><li>• To cover more employees under the main EA, or under specific provisions</li><li>• To adjust (e.g. raise or remove) current salary ceilings</li><li>• To remove workmen and non-workmen categorization</li><li>• To accord PMEs additional protection up to certain salary level</li><li>• To improve employment protection for specific groups of employees e.g. women, mature workers, those in particular sectors (e.g. banking, tour-guide, arts &amp; media industry)</li></ul>   |
| <b>Employment Standards and Benefits</b><br><br><i>( Taken into consideration in Phase 1 of the EA review)</i> | <ul style="list-style-type: none"><li>• To mandate a 5-day work week</li><li>• To reduce working hours</li><li>• To allow right to request for flexible working hours</li><li>• To ensure better protection for local workers in the event of a redundancy</li><li>• To introduce longer notice periods in the event of a termination</li><li>• To mandate written employment contracts</li><li>• To improve medical benefits /insurance, especially for low-wage workers</li><li>• For employers to bear the full cost of medical bills</li><li>• To introduce guidelines for setting minimum wage, annual minimum wage increments and bonuses</li><li>• To remove the need for sick leave to be certified by a doctor/medical certificate</li><li>• To consider allowing employees to convert unused sick leave into cash</li><li>• To review/increase annual leave entitlement</li><li>• To increase the number of public holidays</li></ul> |





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|   | <ul style="list-style-type: none"><li>• To introduce new leave schemes e.g. paternity leave, parental leave*</li><li>• To tighten the eligibility requirements for paternity/maternity leave benefits*</li><li>• To enhance childcare leave entitlement*</li><li>• To extend the use of childcare leave e.g. for parents of children up to 12 or 13 years of age*</li></ul> <p><b>* These proposals relate to national population policies and were considered under the Marriage &amp; Parenthood (M&amp;P) review.</b></p>  |
| <p><b>Enhance Operational Flexibility for Employers</b></p> <p><i>( Taken into consideration in Phase 1 of the EA review)</i></p> | <ul style="list-style-type: none"><li>• To streamline salary payments</li><li>• To remove restrictive clauses in employment contracts</li><li>• To have a cap for medical claims</li><li>• Exempt companies in financial difficulties from providing retrenchment benefits</li></ul>  |
| <p><b>Dispute Resolution, Awareness &amp; Compliance</b></p> <p><i>( To be considered in Phase 2 of the</i></p>                   | <ul style="list-style-type: none"><li>• To introduce more avenues to seek redress/recourse for labour disputes e.g. create an independent ombudsman unit to deal with labour issues</li><li>• To provide public education on EA for employers and employees</li><li>• To improve clarity on essential employment terms e.g. contract of service, letter of appointment, etc</li><li>• To improve enforcement and implement checks on employers to ensure compliance with the EA</li><li>• Conduct audit checks on companies with workers who have outstanding claims</li><li>• To set up formal channels for complaints of workplace bullying such as sexual harassment</li></ul> |



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| <p><i>EA review)</i></p>   | <ul style="list-style-type: none"><li>• To allow employees to file EA complaints at community centres</li><li>• To increase penalties for employers</li><li>• To increase time allowed for employees to seek recourse for unfair dismissal</li><li>• To introduce an administrative fee for PMEs to lodge a complaint</li></ul>  |
| <p><b>Non-traditional work arrangements</b></p> <p><i>(To be considered in Phase 2 of the EA review)</i></p> | <ul style="list-style-type: none"><li>• To improve employment protection of workers in non-traditional work arrangements e.g. short-term contract workers, outsourced and labour supplied workers, hourly-rated workers, part-time workers, temporary staff</li><li>• To consider protection for freelancers, independent contractors and self-employed</li><li>• To review the period of continuous employment e.g. for temporary staff who re-contract with the same employer</li><li>• To restrict probation period of contract workers and allow automatic confirmation</li><li>• To remove term contract scheme in the public service</li></ul> |





**Illustration of Calculation of Overtime Pay (Current and New)**

| Salary/<br>month | Formula to Calculate<br>Hourly Basic Rate                         | Calculation<br>of Hourly<br>Basic Wage   | (Current)<br>Overtime<br>Hourly<br>Wage | (New)<br>Overtime<br>Hourly Wage                    |
|------------------|---|--|---|---|
| \$1,600          | $\frac{12 \times \text{Monthly Basic Rate of Pay}}{52 \times 44}$ | $\frac{12 \times \$1,600}{52 \times 44}$<br>= \$ 8.40  | $\$8.40 \times 1.5$<br>= <b>\$12.60</b> | $\$8.40 \times 1.5$<br>= <b>\$12.60</b> (no change) |
| \$2,250          |   | $\frac{12 \times \$2,250}{52 \times 44}$<br>= \$ 11.80   | Not covered on OT pay                   | $\$11.80 \times 1.5$<br>= <b>\$17.70</b>            |
| \$2,400          |   | $\frac{12 \times \$2,250}{52 \times 44}$<br>= \$ 11.80<br><b>(OT payable capped at salary level \$2,250)</b> | Not covered on OT pay                   | $\$11.80 \times 1.5$<br>= <b>\$17.70</b>            |