

**PUBLIC CONSULTATION DOCUMENT -
PROPOSED ESTABLISHMENT OF AN EMPLOYMENT CLAIMS TRIBUNAL**

AIM

The Ministry of Manpower (MOM) is seeking public feedback on the key features of the proposed Employment Claims Tribunal (ECT) to address salary-related employment claims for all workers. MOM has also been discussing these key features with the Ministry of Law, the Attorney-General's Chambers, the State Courts and the tripartite partners – the National Trades Union Congress and Singapore National Employers Federation.

INTRODUCTION

2. Currently, the Labour Court¹ provides adjudication services to resolve salary-related claims between employers and employees covered under the Employment Act². However, those who are not covered by the Employment Act (including Professionals, Managers and Executives (PMEs) earning more than \$4,500/month) would have to file their claims with the civil courts. The process of filing claims with the civil courts can be lengthy and costly.

3. To provide a more accessible system that can resolve salary-related claims more quickly for all employees, MOM announced plans in 2014 to set up an ECT. In consultation with the abovementioned partners, we propose that the ECT be established as a Tribunal under the State Courts, similar to the Small Claims Tribunal (SCT). The ECT will take over the work of the current Labour Court in adjudicating salary-related claims.

PROPOSED KEY FEATURES OF THE EMPLOYMENT CLAIMS TRIBUNAL

A. Inclusive coverage by the ECT

4. To be inclusive, we propose that the ECT handles salary-related claims for employees, including rank-and-file workers as well as Professionals, Managers and Executives (PMEs), who have an employment contract with their employers, regardless of their salary level.

5. Public servants, domestic workers and seafarers are today not covered by the Employment Act and do not have access to the Labour Court³. Similarly, they will not be able to file claims with the ECT when the ECT is first set up, but will continue to have alternate avenues of recourse for their employment disputes.⁴ The ECT may extend its

¹ For employees covered by the Employment Act, the Commissioner for Labour can inquire into and decide on a salary-related claim, and may then make an order to pay a certain sum of money. This dispute resolution structure is colloquially referred to as the Labour Court.

² The Employment Act stipulates the rights and obligations of employers and employees. It provides for basic employment benefits such as salary protection, minimum employment terms and dispute resolution. All employees on a contract of service are covered by the Act except PMEs earning above \$4,500/month, domestic workers, public servants and seafarers.

³ Except for claims under the Retirement and Re-employment Act and Child Development Co-Savings Act.

⁴ Public servants have recourse through the Public Service's internal processes while domestic workers can already approach their employment agencies and/or MOM to resolve employment disputes.

adjudication services to hear claims from these groups of employees at a later date when operations have stabilised.

6. This means that apart from the few exceptions in paragraph 5, the ECT will cover all employees.

B. Types of claims

7. We propose that the ECT hears salary-related claims from employees, similar to the current Labour Court. These include statutory claims provided for in legislation such as the Employment Act, as well as salary-related claims expressly provided in monetary terms in employment contracts. For example, if the employment contract states that the employee is eligible for one month of year-end cash bonus after completing one year of service, the employee who has worked for at least a year may file a claim with ECT if he/she did not receive this bonus. In addition, employers or employees can claim salary-in-lieu of notice relating to the termination of employment

8. As the ECT is meant to be an expeditious mechanism to deal with salary-related claims, it will not hear issues related to other workplace grievances (e.g. unfair dismissal and discrimination). Employees will continue to be able to pursue such claims by coming to MOM if they are covered under the Employment Act; or through the civil courts.

C. Mediation

9. In order to encourage parties to resolve their differences amicably, claimants must first go through a mediation process before their cases can be heard by the ECT. This is similar to other tribunal mechanisms that have been recently introduced, e.g. the Community Dispute Resolution Tribunal. This mediation will be carried out by MOM or MOM-approved mediators.

D. Limit on claims amount

10. In line with the SCT, where the jurisdiction limit is \$20,000 where both parties agree, we propose to cap the amount for claims that are brought to the ECT at \$20,000 per claim. We will allow a higher claims cap of \$30,000 for claimants who go through the Tripartite Mediation Framework or MOM conciliation prescribed under the Industrial Relations Act).⁵

E. Time limit to file a claim

11. We encourage claimants to come forward and lodge their claims early as it becomes more difficult to establish facts as time passes. Hence, similar to the SCT, we propose that the claim must be filed for mediation within one year from the date on which the claim arises. If

⁵ The Tripartite Mediation Framework refers to a form of mediation conducted by a conciliation officer, between an executive employee and his employer, with the assistance of tripartite mediation advisors as prescribed under Part IVA of the Industrial Relations Act. MOM conciliation under the Industrial Relations Act refers to conciliation for collective disputes and limited representation disputes under Part III and Part IV of the Industrial Relations Act. Issues that cannot be resolved at conciliation can be referred to the Industrial Arbitration Court. The set-up of the ECT will provide an alternative avenue for salary-related issues that cannot be resolved through such conciliation.

the employment relationship has ended, the claim must be lodged within six months of the end of employment.

PERIOD OF CONSULTATION

12. MOM hereby invites members of the public to provide feedback on the proposed key features of the ECT as outlined above. The consultation exercise will last from **25 February 2016 to 23 March 2016**.

FEEDBACK CHANNELS

13. We seek your support to ensure that the consultation exercise is productive and focused, and would like to request that respondents:

- a. Identify yourself and the organisation you represent (if applicable), as that would assist in our understanding of the impact of the proposed changes on different stakeholder groups;
- b. Make your comments clear and concise;
- c. Identify the specific proposal you are commenting on, and provide your comment on how the proposals/features can be improved or made clearer; and
- d. As far as possible, explain your points with illustrations and examples.

14. Please submit your feedback through this email address: mom_consultations@mom.gov.sg so that it reaches us directly and facilitates the process of consideration.

15. Alternatively, you can also send your comments through post to:

Employment Claims Tribunal Public Consultation
Ministry of Manpower, Singapore
18 Havelock Road, #06-02
Singapore 059764

16. Please send your comments by **23 March 2016, 6pm**. We seek your understanding that comments received after the deadline may not be in time for incorporation into our considerations for the ECT.

SUMMARY OF RESPONSES

17. All feedback received will be taken into consideration. However, we regret that we will not be able to address every single feedback received. Instead, we will consolidate and publish a summary of the key comments received, together with our responses, on the REACH website after the consultation exercise closes. All feedback will be treated with confidentiality and we will not disclose the identity of the person(s) providing the feedback.

18. Thank you.
