

2017/18

# EMPLOYMENT STANDARDS REPORT





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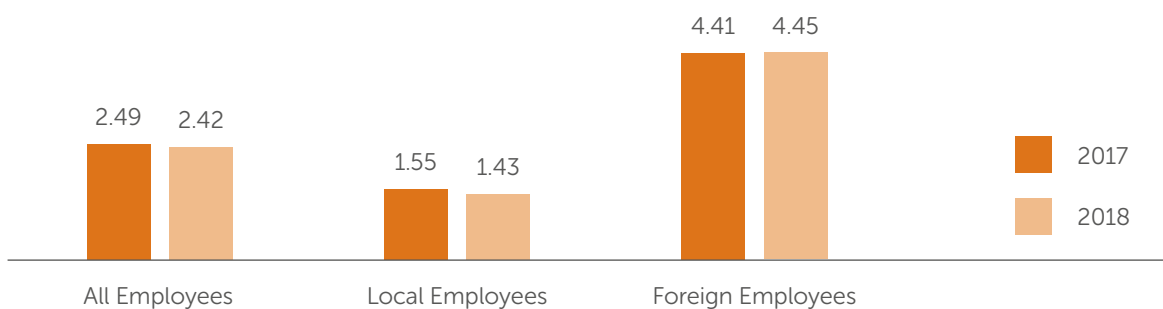
## INTRODUCTION

- 1 Employment issues remain the top priority of the Ministry of Manpower (MOM). To enhance Singapore's employment dispute resolution framework, the Tripartite Partners – MOM, the National Trades Union Congress (NTUC), and the Singapore National Employers' Federation (SNEF) – jointly set up the Tripartite Alliance for Dispute Management (TADM) in April 2017 to provide advice to and manage employment disputes between employees and employers. We complement dispute management with our education, rectification and enforcement efforts with a view to uplift employment standards at our workplaces.
- 2 This report covers the employment standards situation from the establishment of TADM on 1 April 2017 to 31 December 2018.

## INCIDENCE OF SALARY CLAIMS AMONG EMPLOYEES

- 3 From 1 April 2017 to 31 December 2018, 17,038 employment claims and appeals were lodged with MOM and TADM<sup>1</sup>. 14,757 (or 87%) of which were related to salary claims. Overall, **there were 2.42 salary claims per 1,000 employees in 2018** and 2.49 salary claims per 1,000 employees in 2017.

Chart 1: Number of salary claims per 1,000 employees from 1 April 2017 – 31 December 2018



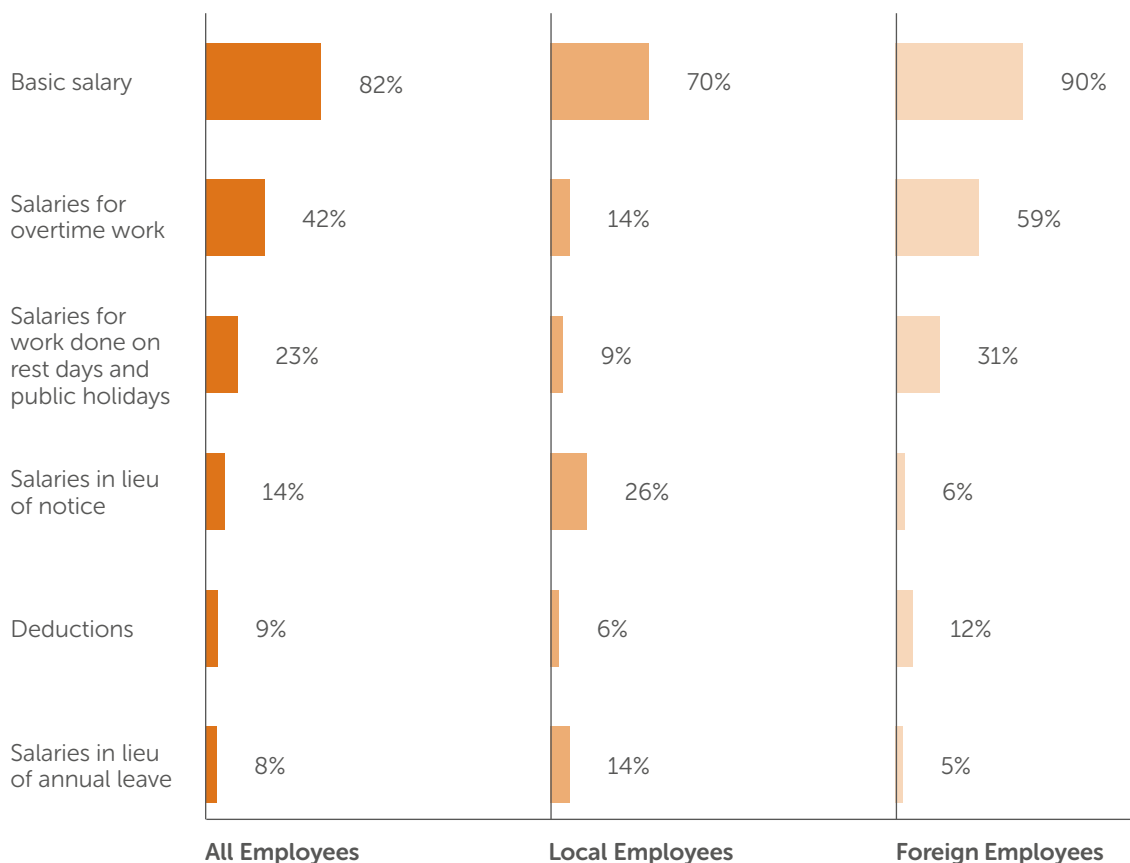
- 4 **Among local employees, there were 1.43 salary claims per 1,000 employees in 2018, down from 1.55 salary claims per 1,000 employees in 2017.** This was partly driven by the good business conditions in 2017 and 2018, in particular for the manufacturing and services sectors which contributed to the bulk of local salary claims.
- 5 **Among foreign employees, there were 4.45 salary claims per 1,000 employees in 2018, about three times that for local employees.** Majority of the foreign claimants worked in the construction sector, for which the number of claims had been high in the recent years. This was exacerbated by the continued declines in employment and the gross domestic product in the sector in 2017 and 2018, reflecting weakness in public sector construction activities.

<sup>1</sup> These include individual claims lodged under the Employment Claims Act and other appeals filed under the Employment Act, Child Development Co-Savings Act, Retirement and Re-employment Act, and Industrial Relations Act.

## COMMON TYPES OF SALARY CLAIMS FILED BY EMPLOYEES

6 A breakdown of the top salary claims filed by employees is in Chart 2 below. Apart from claims for basic salary, the other top claim types of local employees differed from those of foreign employees.

**Chart 2: Common types of salary claims filed by employees from 1 April 2017 – 31 December 2018**



\* An employee may file salary claims across multiple claim types. Therefore, the sum of the proportions exceeded 100%. The salary claim types in the table are not exhaustive.

### Basic salary

7 Amongst the claimants, the majority (local (70%) and foreign employees (90%)) lodged claims for payment of basic salary against their employers. Such salary claims arose mainly due to: (a) business failures; and (b) technical breaches because of employers' lack of understanding of legal requirements such as errors in calculation or late payroll scheduling. For foreign employees, another contributing factor is employers' illegal downward adjustments of employees' salaries without their consent and without informing MOM.



### Salaries for overtime work, work on rest days and public holidays

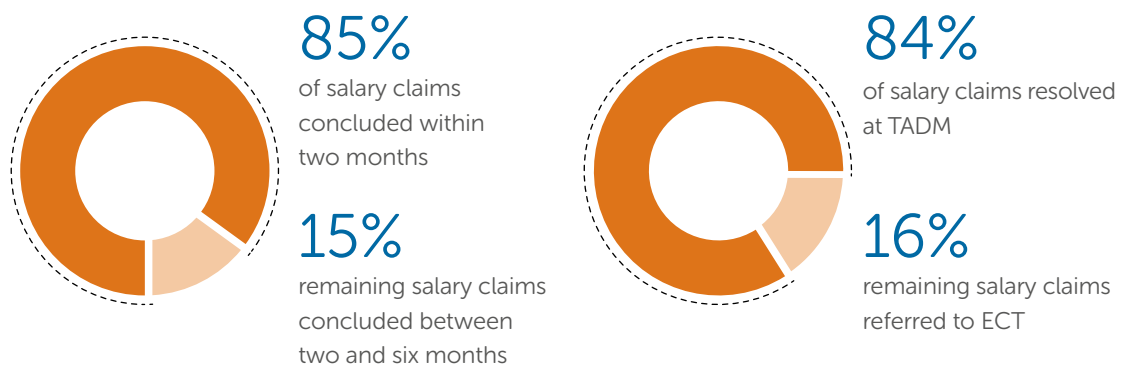
- 8 Claims for salaries for overtime work, work on rest days and public holidays were more commonly filed by foreign claimants than local claimants. Other than business failures, poor awareness among small and medium enterprises (SMEs) of the following legal requirements is another common cause of disputes:
- (a) Employers are required to issue key employment terms and itemised payslips as well as keep complete and accurate records on working hours and attendance. Some employers do not issue or maintain such employment documents while others do not have reliable systems to do so. In particular, for working hours and attendance records, employers should allow their employees to regularly verify and countersign against such records to prevent disputes in the future; and
  - (b) Employers are required to accurately compute salaries for additional work done which are payable at different rates as follows – (i) salaries for overtime work is payable at a minimum of 1.5 times the basic hourly rate of pay, (ii) an additional day of basic salary for work done on paid public holidays, and (iii) two additional days of basic salary for work done on rest days. Instead of making this distinction in rate of pay, many employers who breach the law are using a single rate of 1 times the basic pay for work done on rest days and overtime, and not paying a full additional day of basic pay for paid public holidays.

### Salaries in lieu of notice and annual leave

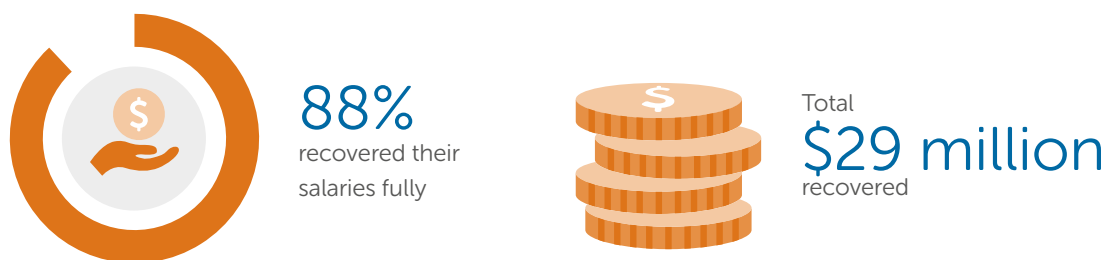
- 9 Claims for salaries in lieu of notice and annual leave were more commonly filed by local claimants than foreign claimants.
- 10 Both employees and employers can legally terminate their employment relationship by serving a notice period or making payment-in-lieu. Disputes over salaries in lieu of notice often arose due to (a) the lack of clarity over which party initiated the termination as it was conveyed orally and not in writing; and (b) a dispute between parties over the reason for the termination, particularly whether it was on the ground of an employee's misconduct for which notice need not be given. To avoid disputes between parties, any termination of employment relationship by either party must be done in writing.
- 11 Disputes over salaries in lieu of annual leave at the end of employment often arose due to (a) employees not knowing that leave approval is required during their notice period, and (b) unclear number of days of annual leave balance as employers did not keep up-to-date leave records.

## EXPEDITIOUS AND EFFECTIVE RECOVERY OF SALARY RELATED CLAIMS

- 12 For the salary claims lodged between 1 April 2017 and 31 December 2018, 85% were concluded within two months, with the remaining complex claims concluding between two and six months at TADM. 84% of the claims were resolved at TADM, while the remaining were referred to the Employment Claims Tribunals (ECT)<sup>2</sup> for adjudication.



- 13 88% of employees, whose employers agreed or were ordered to make payment, fully recovered their salaries at TADM or ECT, with the recovered sum totalling about \$29 million. About half of the remaining employees partially recovered their owed salaries.



- 14 Early reporting of arrears is critical to the prospects of full recovery. For settlement agreements<sup>3</sup> and orders by ECT made in favour of employees, the average amount owed to claimants who fully recovered salaries from their employers was about \$4,400. This was lower compared to that of claimants who received partial or no payment, which was about \$6,900. MOM will continue its outreach efforts to educate employees to approach TADM as early as possible when they encounter salary issues.

<sup>2</sup> The ECT provides employees and employers with a speedy and low-cost forum to resolve their salary-related and wrongful dismissal disputes. To bring a claim before the ECT, parties must first register their claims at TADM for mediation. Only disputes which remain unresolved after mediation at TADM will be referred to the ECT.

<sup>3</sup> When mediation is successful, parties will sign a settlement agreement at TADM and can apply for the registration of the settlement agreement in the District Courts for it to be enforceable as a binding Court Order.

## GOING BEYOND MANAGEMENT OF EMPLOYMENT DISPUTES

- 15 Employees faced with employment disputes may require support beyond mediation or adjudication for their salary claims. For low-income employees who are unable to recover their salaries in full, TADM works with NTUC U Care Centre and the Migrant Workers' Centre to provide financial relief through the Short Term Relief Fund<sup>4</sup> or the Migrant Workers' Assistance Fund<sup>5</sup> respectively. TADM also works with these two organisations to guide employees to take legal action to recover their salaries where possible. This may be done through the Writ of Seizure and Sale process, which allows the employees to recover their owed salaries by taking possession of and selling the employers' assets.

Agencies that TADM partners with to provide employees with further support



- 16 In addition, TADM partners the following agencies to provide employees further support.
- The Employment and Employability Institute and Workforce Singapore: to help employees transit into new job roles through job facilitation and training.
  - The Ministry of Social and Family Development – Social Service Offices: to help employees cope with their financial obligations while they transit to a new job.

<sup>4</sup> The Short Term Relief Fund (STRF) funded by MOM provides short-term financial relief to local low income employees, whose employers are unable to repay salaries due to financial difficulties and/or company closure. The STRF is means-tested and broadly covers the bottom 20<sup>th</sup> percentile of our resident workforce. TADM will actively identify employees who may need this financial relief.

<sup>5</sup> The Migrant Workers' Assistance Fund is the humanitarian charity of the Migrant Workers' Centre. It provides emergency humanitarian assistance to distressed migrant workers facing employment-related issues. The assistance offered includes emergency shelter, basic sustenance, medical and ex-gratia.



# IMPROVING WORKPLACE PRACTICES THROUGH EDUCATION, RECTIFICATION AND ENFORCEMENT

- 17 To address the above mentioned employment issues, MOM adopts a three-prong approach of education, rectification and enforcement.



## Education

### 18 Broad-based outreach and engagement

#### (a) Workright

Since 2012, MOM has been raising awareness and improving compliance with the Employment Act and the CPF Act, particularly amongst the SMEs, through the Workright initiative. This includes education on timely payment of salaries and accurate computation of salary payments. Workright includes broad-based marketing efforts, annual roadshows with our partners to engage members of the public, and self-help toolkits for employers. In 2017 and 2018, MOM organised a total of 19 roadshows in various heartland areas in Singapore and reached out to about 59,000 people. In the same time period, about 190,000 toolkits have been distributed to both employers and employees to help them understand their obligations and rights. MOM also works closely with the Tripartite Alliance for Fair and Progressive Employment Practices (TAFEP) to produce guides on Employment Act requirements for employers and employees.

#### (b) Mass media campaigns

In 2018, MOM and TAFEP rolled out several campaigns promoting better employment practices, including the 'Read before you sign' campaign to educate employees on the key employment terms to look out for in their contracts and the importance of reading employment contracts before signing them. These campaigns were carried on multiple communication platforms e.g. outdoor advertising, programmatic web banners, print, radio, and social media channels.

- 19 **Targeted outreach to foreign employees.** From 1 October 2018, MOM requires all first-time non-Malaysian work permit holders in the construction sector to attend the Settling-In Programme, which educates them on basic employment rights and responsibilities. The programme will also be extended to first-time non-Malaysian work permit holders in the Manufacturing, Marine Shipyard and Process sectors by December 2019.

## Rectification

- 20 **While serious offences are investigated and prosecuted, MOM adopts a rectification approach for the less severe breaches.** This recognises that there are employers, especially some SMEs, that have poor employment practices but are unlikely to reoffend once they have corrected their practices. Such poor practices lead to incomplete and inaccurate employment records, or failure to provide key employment terms or itemised payslips. These poor employment practices contribute to employment disputes between parties and lengthens the time taken to verify claims.
- 21 As part of rectification, MOM also requires employers to attend corrective clinics on the Employment Act. These employers are required to correct their lapses, and are subjected to random follow-up checks to ensure rectification of their wrong HR practices. As of Sep 2019, 380 employers have attended the corrective clinics.

## Enforcement

- 22 **Proactive inspections of workplaces.** In 2017 and 2018, MOM carried out more than 11,000 inspections. This has helped about 47,000 employees receive their due employment rights, such as timely payment of salary, correct payment for overtime work done, and payment of CPF contributions.
- 23 MOM also introduced new operational concepts to increase effectiveness of enforcement:
- (a) **Salary payment declaration:** Using data analytics, MOM identifies employers who are assessed to be at higher risk of defaulting on salary obligations. MOM orders the employer to make a declaration for all their employees, as to whether salaries are up to date, or if they are in arrears. This allows salary arrears to surface earlier before they snowball to a larger amount. In a pilot exercise involving 100 construction employers, 123 cases of salary arrears were detected proactively from four employers, leading to early recovery of \$300,000 in salary arrears.
- (b) **Drawing adverse inferences:** If an employer does not keep or produce the required employment documents, it would be difficult for claimants to prove their case. For example, without records on working hours that employers are legally required to maintain, an employee has to rely on his/her records to prove the number of overtime hours worked. Such personal records are often (i) incomplete because employees are not expected to do so, or (ii) disputed by their employers.

TADM and ECT now draw adverse inferences against employers who failed to comply with employment laws, relying on the new section 21 of the Employment Claims Act.



- 24 **Enhanced enforcement approach on downward adjustment of salaries for foreign employees.** The use of adverse inferences has been deployed in the new enhanced approach to deal with the problem of wrongful downward adjustment of salaries for foreign employees. Employers are required by law to (i) notify MOM of any downward adjustment to their foreign employees' salaries, and (ii) seek their employees' prior written consent. TADM draws adverse inferences against employers who failed to comply with these requirements, and mediates salary claims based on the original declared salaries. In 2018, 166 claimants benefited from this change. 82 errant employers were also imposed with administrative financial penalties of about \$900,000.



## CONCLUSION





### **Our collective efforts ensure long lasting harmonious workplaces**

- 25 Even as we continue to improve our resolution of employment disputes and strengthen enforcement of employment laws, building harmonious workplaces is a collective effort. Businesses will be affected by the trade tensions in the short term as well as greater uncertainty in the economy in the medium term. It is therefore imperative that employers recognise the rights of their employees and adopt progressive and responsible employment practices to build an engaged workforce that can help the businesses weather the difficult times. Employees, on their part, should continue to upgrade themselves to keep up with business transformation. They should also familiarise themselves with their statutory and contractual rights through the information available on the websites and various media campaigns of the tripartite partners. Employees who cannot resolve their disputes with their employers privately should seek help from TADM or MOM as soon as possible.
  - 26 As the regulator, MOM will keep abreast with the changing employment landscape and preserve the healthy industrial relations between employers and employees. We will do so through innovating and testing new enforcement and dispute management mechanisms to address both existing and emerging issues at our workplaces. If necessary, MOM will also amend employment laws to ensure that emerging problems are arrested early.
  - 27 Through our collective efforts, we are confident that there will be a continuous uplifting of our employment standards and ubiquity of harmonious workplaces.
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# ANNEXES

## Annex A – Advisory for Employers



Salary Claims	Advisory for Employers
<b>General/ Basic Salary</b>	<ul style="list-style-type: none"> <li>Employers must pay their employees' salaries at least once a month and within 7 days after the end of the salary period.</li> <li>Employers cannot pay their foreign employees less than the salaries declared in the Work Permit application, unless they have notified MOM and sought their employees' written consent for the downward adjustment of the salaries.</li> <li>Employers of work permit holders must pay their salaries electronically, if requested.</li> <li>Employers must issue itemised payslips together with actual salary payment to all their employees.</li> <li>Employers must issue written key employment terms to their employees employed after 1 April 2016.</li> <li>Employers can attend workshops on the Employment Act to know how to comply with the Employment Act and adopt fair and progressive employment practices.</li> </ul> <p>  <b>For details on the payment of salary as covered under the Employment Act, please visit:</b>  <a href="https://www.mom.gov.sg/employment-practices/salary/paying-salary">https://www.mom.gov.sg/employment-practices/salary/paying-salary</a> </p>
<b>Salaries for overtime work, work done on rest days and public holidays</b>	<ul style="list-style-type: none"> <li>Employers must give breaks, overtime pay and rest days to their employees who are covered under Part IV of the Employment Act<sup>6</sup>.</li> <li>Employers must pay their employees for overtime work within 14 days after the end of the salary period.</li> <li>Employers must keep and maintain employment records for working hours and attendance, and allow their employees regular access to them. Employers can use a timesheet to record their employees' daily working hours, and have their employees verify their records before the salaries for overtime work are paid. Employers can also tap on pre-approved HR IT solutions to keep track of their employees' working hours.</li> </ul> <p>  <b>For details on hours of work, overtime and rest days as covered under the Employment Act, please visit:</b>  <a href="https://www.mom.gov.sg/employment-practices/hours-of-work-overtime-and-rest-days">https://www.mom.gov.sg/employment-practices/hours-of-work-overtime-and-rest-days</a> </p>

<sup>6</sup> From 1 April 2019, Part IV of the Employment Act, which provides for rest days, hours of work, annual leave and other conditions of service, only applies to:



(i) A workman (doing manual labour) earning a basic monthly salary of not more than \$4,500.

(ii) An employee who is not a workman, but who is covered by the Employment Act and earns a monthly basic salary of not more than \$2,600.

Part IV of the Employment Act does not cover all managers or executives.

Salary Claims	Advisory for Employers
Salaries in lieu of notice	<ul style="list-style-type: none"> <li>• Employers must provide due notice or payment in lieu of notice to their employees upon termination of employment contracts.</li> <li>• The duration of notice period should be the same for both employers and employees, and either party should have the option to terminate the contract by serving notice.</li> <li>• Employers should issue a written notice during termination to provide clarity on the notice period and the actual last day of work.</li> </ul> <div style="display: flex; align-items: flex-start; margin-top: 10px;">  <p>For details on termination with notice as covered under the Employment Act, please visit:  <a href="https://www.mom.gov.sg/employment-practices/termination-of-employment/termination-with-notice">https://www.mom.gov.sg/employment-practices/termination-of-employment/termination-with-notice</a></p> </div>
Salaries in lieu of annual leave	<ul style="list-style-type: none"> <li>• Employers must allow employees covered under Part IV of the Employment Act to carry forward any unused annual leave to the next 12 months.</li> <li>• If employees are dismissed for reasons other than misconduct, employers must encash any of their unused annual leave.</li> <li>• Employers can prevent such disputes by stipulating their leave encashment policy clearly in their employment contracts provided to their employees before the start of employment.</li> </ul> <div style="display: flex; align-items: flex-start; margin-top: 10px;">  <p>For details on treatment of unused annual leave entitlement as covered under the Employment Act, please visit:  <a href="https://www.mom.gov.sg/employment-practices/leave/annual-leave/special-situations">https://www.mom.gov.sg/employment-practices/leave/annual-leave/special-situations</a></p> </div>

## Annex B – Advisory for Employees

Salary Claims	Advisory for Employees
General/ Basic Salary	<ul style="list-style-type: none"> <li>• Employees should clarify any salaries non- or short- payments or adjustments with their employers, and approach TADM for assistance as soon as possible, if they are unable to resolve the matter with their employers.</li> <li>• Employees should not sign on any salary vouchers for future payments, as well as any documents that they do not understand or agree with. They should report such practices to MOM immediately.</li> <li>• Employees should ask for a set of key employment terms if not given at the start of employment, and itemised payslips with their salary payments.</li> </ul> <p data-bbox="411 790 568 943"></p> <p data-bbox="580 790 1369 887"><b>For details on the payment of salary as covered under the Employment Act, please visit:</b>  <a href="https://www.mom.gov.sg/employment-practices/salary/paying-salary">https://www.mom.gov.sg/employment-practices/salary/paying-salary</a></p>
Salaries for overtime work, work done on rest days and public holidays	<ul style="list-style-type: none"> <li>• Employees must be given access to their working hours records. Employees should ask for their working hour records if they are not given access to it, and verify these records. Employees should highlight any discrepancies with their employers as soon as possible.</li> </ul> <p data-bbox="411 1104 568 1256"></p> <p data-bbox="580 1104 1398 1234"><b>For details on hours of work, overtime and rest days as covered under the Employment Act, please visit:</b>  <a href="https://www.mom.gov.sg/employment-practices/hours-of-work-overtime-and-rest-days">https://www.mom.gov.sg/employment-practices/hours-of-work-overtime-and-rest-days</a></p>
Salaries in lieu of notice	<ul style="list-style-type: none"> <li>• Employees should clarify the notice period, which includes asking their employers for a termination letter in writing, when informed of their termination by their employers.</li> <li>• For resignations, employees should similarly provide a written notice to their employers to prevent any subsequent dispute.</li> <li>• If employees are absent from work for more than 2 working days continuously without approval, they have breached the contract and must pay salary-in-lieu of notice to their employers.</li> </ul> <p data-bbox="411 1630 568 1783"></p> <p data-bbox="580 1630 1390 1760"><b>For details on termination with notice as covered under the Employment Act, please visit:</b>  <a href="https://www.mom.gov.sg/employment-practices/termination-of-employment/termination-with-notice">https://www.mom.gov.sg/employment-practices/termination-of-employment/termination-with-notice</a></p>
Salaries in lieu of annual leave	<ul style="list-style-type: none"> <li>• Employees should clarify their terms of employment, including the policy on encashment of unused annual leave, prior to the start of employment.</li> </ul> <p data-bbox="411 1910 568 2063"></p> <p data-bbox="580 1910 1374 2040"><b>For details on treatment of unused annual leave entitlement as covered under the Employment Act, please visit:</b>  <a href="https://www.mom.gov.sg/employment-practices/leave/annual-leave/special-situations">https://www.mom.gov.sg/employment-practices/leave/annual-leave/special-situations</a></p>

