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20 November 2018

Changes to the Employment Act from 1 April 2019 to cover all employees, enhance dispute resolution and provide business flexibility

The Employment (Amendment) Bill was passed in Parliament today, with changes to the Employment Act (EA) and Employment Claims Act (ECA) to take effect from 1 April 2019. The amendments to the Acts cover four key areas:

- (i) Extension of core provisions of the EA to protect all employees;
- (ii) Extension of Part IV of the EA to protect more employees;
- (iii) Enhancement of the employment dispute resolution framework; and
- (iv) Enhanced flexibility for employers.

Background

2 In March 2018, then-Minister for Manpower Mr Lim Swee Say announced that the Ministry of Manpower (MOM), in consultation with tripartite partners – the National Trades Union Congress and the Singapore National Employers Federation – will be amending the EA and ECA later in the year. A public consultation on the areas of review was also conducted in January and February 2018.

3 The amendments are to keep pace with changes to Singapore’s labour force profile and employment practices. Professionals, managers, executives and technicians now make up more than half the local workforce, with this proportion expected to increase to two-thirds by 2030.

Key amendments to the Employment Act

(i) Extension of core provisions of the EA to protect all employees

4 Today, core provisions of the EA cover all employees except managers and executives (M&Es) earning above \$4,500/month.

5 From 1 April 2019, the \$4,500/month salary cap will be removed, thereby extending coverage of the EA to all employees. This will benefit an additional 430,000 M&Es who will be covered for core provisions such as minimum 7-14 days of annual leave, paid public holidays and sick leave, timely payment of salary and statutory protection against wrongful dismissal.



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Public servants, domestic workers and seafarers will continue to be excluded as they are covered separately under other laws, due to the nature of their work.

(ii) Extension of Part IV of the EA to protect more employees

6 Besides the core provisions, Part IV of the EA provides additional protection of working hours, payment for overtime work and rest days. It currently benefits:

- a) workmen (i.e. blue-collar employees involved in manual labour, such as cleaners and construction workers) earning a basic salary of up to \$4,500/month, and
- b) non-workmen (i.e. white-collar employees who are not in managerial or executive positions, such as clerk and receptionists) earning a basic salary of up to \$2,500/month.

7 From 1 April 2019, changes to Part IV of the EA will benefit an additional 100,000 non-workmen, as indicated in Table 1:

Table 1: Changes to coverage of employees under Part IV of the EA

Before amendments to EA	After amendments to EA
Workmen earning up to \$4,500/month	No change
Non-workmen earning up to \$2,500/month	Non-workmen earning up to \$2,600/month
Non-workmen: The cap for the monthly basic salary used to calculate the hourly rate for overtime work is \$2,250/month ¹	Non-workmen: The cap for the monthly basic salary used to calculate the hourly rate for overtime work is now \$2,600/month²

(iii) Enhancement of the employment dispute resolution framework

¹ Formula for calculating overtime pay under the EA:

Hourly rate x 1.5 x number of hours worked overtime

Hourly rate = (12 months x monthly basic salary) / (52 weeks x 44 hours per week)

² No change to the formula for calculating overtime pay under the EA



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8 To provide a “one-stop service” for employment dispute resolution, the adjudication of wrongful dismissal claims will be shifted from MOM to the Employment Claims Tribunals (ECT), which currently adjudicate salary-related disputes. In addition, the service qualifying period for M&Es to qualify for wrongful dismissal protection will be reduced from 12 months to 6 months.

9 With the transfer of the adjudication function to the ECT, MOM will publish a set of Tripartite Guidelines on Wrongful Dismissal to illustrate what is considered wrongful dismissal.

(iv) Enhanced flexibility for employers

Extend option of time off for working on public holiday to more employees

10 Changes to the EA were also made to provide flexibility to employers to give time off to more employees for work on public holidays, while ensuring that those with lower bargaining power will continue to get either their extra day’s salary or full-day off. Like other core provisions, compensation for work done on public holidays has been extended to all employees. Table 2 sets out the changes:

Table 2: Changes to coverage of options for compensating employees for work on public holidays

Before amendments to EA	After amendments to EA
<p>For all workmen and non-workmen, employers have two options for compensation for working on a public holiday:</p> <ul style="list-style-type: none"> - Extra day’s salary; or - A full-day off 	<p>For workmen earning up to \$4,500/month, and non-workmen earning up to \$2,600/month, employers have two options for compensation for working on a public holiday:</p> <ul style="list-style-type: none"> - Extra day’s salary; or - A full-day off
<p>For M&Es earning up to \$4,500/month, employers have three options for compensation for working on a public holiday:</p> <ul style="list-style-type: none"> - Extra day’s salary; or 	<p>For all M&Es, workmen earning more than \$4,500/month, and non-workmen earning more than \$2,600/month, employers have three options for compensation for working on a public holiday:</p>



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<ul style="list-style-type: none">- A full-day off; or- Time off (less than full day)	<ul style="list-style-type: none">- Extra day's salary; or- A full-day off; or- Time off (less than full day)
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Adopt less prescriptive approach for authorised deductions

11 Today, the EA limits the type of salary deductions that employers can make, such as absence from work or damaging or losing goods entrusted to the employee. After the EA is amended, salary deductions will also be allowed if it fulfils two conditions: (i) the employee must consent to the deduction in writing, and (ii) the employer enables the employee to withdraw his consent at any time, without penalty. This change gives employers flexibility while safeguarding employees' interests.

12 For example, employers may negotiate affordable group insurance plans as part of company employee benefits for voluntary purchase by their employees. Employees who choose to purchase such insurance plans may, from 1 Apr 2019, authorise their employer to deduct the premiums from their salaries. Employers must however enable the employee to stop the deductions at any time, without penalty.

Other amendments to the EA

13 Other amendments include:

- (i) Requiring employers to recognise medical certificates for being unfit to work from all doctors, instead of only those issued by Government and company-appointed doctors;
- (ii) Clarifying that paid hospitalisation leave is to cover:
 - a. The period requiring hospital care and the period of recuperation after being discharged;
 - b. Quarantine orders as required by law; and
 - c. Situations where the hospital doctor assesses that the patient is ill enough to require hospitalisation but is not hospitalised;

14 Taken together, the amendments to the EA will better protect our workers, enhance dispute resolution and provide employers with greater flexibility in their business operations.