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# Singapore News

## Upcoming Changes to Singapore's Employment Law - What Employers Need to Know About It

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Singapore's Employment Law has always been very employer-friendly. In the past years, however, the Employment Act ("EA"), Singapore's main labour law, was amended several times to strengthen and improve the rights of employees. In November 2018, the Singapore Parliament passed another bill with the aim to further protect employees, the Employment Amendment Bill ("**Amendment Bill**"). The presented amendments will be implemented by 1 April 2019. This newsletter sketches out some of the most important changes.

### 1. More protection for employees in a managerial or executive position

Currently, persons employed in a managerial or executive position ("**M&Es**") benefit from the EA only in a very limited way. Solely if they are in receipt of a monthly salary not exceeding SGD 4,500, the so-called *core provisions* of the EA are applicable to M&Es. Benefits under the EA's core provisions include:

- Standards regarding the payment of salary and possible deductions,
- Holiday and sick leave entitlements,
- Maternity protection/benefits and childcare leave,
- Protection against unwarranted termination and wrongful dismissal, and
- Entitlement to compensation in case of an employer's breach of an employment contract.

From 1 April 2019, the afore-mentioned salary cap of SGD 4,500 will be removed so that all M&Es can benefit from the EA's core provisions. This means that a group of approximately 430,000 M&Es will be covered by the EA for the first time. The protective provisions of the EA's Part IV on the other hand (see 2. below) will remain inapplicable to M&Es (irrespective of their salary).

### 2. More protection for non-workmen under the EA's Part IV

Part IV of the EA contains protective provisions for employees in special need of protection. These provisions especially cover the topics:

- Rest days, work on rest days and compensation for such work, and
- Hours of work, overtime work and overtime payment.

Currently, the provisions of the EA's Part IV are applicable (1) to workmen who are in receipt of a salary not exceeding SGD 4,500 a month and (2) to employees other than workmen who are in receipt of a salary not exceeding SGD 2,500 a month. Pursuant to the Amendment Bill, the latter threshold will be increased to SGD 2,600. It is estimated that, due to this change, 100,000 additional employees will benefit from the Part IV provisions.

### 3. Fully progressive overtime payment rate for non-workmen under the EA's Part IV

If an employee covered by the EA's Part IV works overtime, he shall be paid for such extra work at a rate of not less than one and a half times his hourly basic rate of pay. The hourly basic rate of pay is determined by dividing an employee's twelfefold monthly salary by 2,280 (2,280 is the maximum of hours an employee can work in a year without his work being regarded as overtime work).

For non-workmen this calculation model currently comes with a restriction. While Part IV EA covers them up to monthly salary of SGD 2,500, their monthly salary will only be taken into account for the above calculation up to an amount of SGD 2,250. This means, for example, that a non-workman with a monthly salary of SGD 2,500 is entitled to only the same overtime payment rate as a non-workman with a monthly salary of SGD 2,250. In other words: the progressive character of overtime payment rates stops at a monthly salary of SGD 2,250.

Pursuant to the Amendment Bill, this restraint will be removed, so that the full monthly salary – up to the revised figure of SGD 2,600 – will be taken into account when calculating the overtime payment rate for non-workmen. This will provide for fully progressive and fair overtime pay rates.

#### 4. Recognition of medical certificates by all registered doctors

Currently, employees may be entitled to paid sick leave only, if such sick leave is certified by (1) a medical practitioner appointed by the employer or (2) a so-called medical officer, i.e. a government doctor. This makes it often impossible for employees to consult their trusted family doctors in order to obtain a medical certificate.

In the future, this burden will be eased and employers will have to recognise medical certificates issued by any registered doctor. However, the employer will only be liable to bear or reimburse the employee the fees of an examination for government or employer-approved doctors.

#### 5. Enhanced dispute resolution

In case employees wish to take action against a (perceived) wrongful dismissal, they are currently able to bring “their case” to the Ministry of Manpower’s (“**MoM**”) attention. On the other hand, salary-related disputes – which do regularly arise together with wrongful dismissal disputes – are heard by the so-called Employment Claims Tribunal (“**ECT**”). Resolving related issues at different venues is often burdensome for both employers and employees. The Amendment Bill addresses this topic by putting the ECT also in charge of hearing wrongful dismissal disputes.

#### 6. What employers need to do now

The upcoming employment law changes demonstrate Singapore’s commitment to progressively adopting a more pro-employee approach.

Employers should

- carefully study the EA’s new provisions and be aware of the key changes,
- review and, if necessary, update their employment agreements and employee handbooks, and
- be aware of the consequences of an infringement of the EA’s provisions (especially illegality of infringing contract clauses, fines and – in a worst case scenario – imprisonment).

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