

Extensive amendments to the Employment Act in the pipeline

October 12, 2018

Introduction

In line with the swing towards greater employee protection in Singapore over the last few years, proposed revisions to the Employment Act (the Act) have been introduced by way of the Employment (Amendment) Bill (the Bill) tabled in Parliament on 2 October 2018. The Bill which will be raised in Parliament in November 2018, is targeted to take effect in April 2019.

We highlight here the key amendments proposed and the main implications for employers and employees.

Key amendments

(i) Removal of salary caps applicable to PME

The most significant change to the Act relates to the removal of the basic salary cap of S\$4,500 per month for professionals, managers and executives (PMEs) to be covered by the Act. In short, the Act (save for Part IV) now applies to all PMEs.

With the proposed changes, an estimated additional 430,000 PMEs will be entitled to statutory benefits under the Act. Such benefits would include:

- a. redress for wrongful dismissal;
- b. automatic transfers of employment pursuant to a business transfer;
- c. minimum days of annual leave, paid sick leave and hospitalisation leave;
- d. timing for payment of salary;
- e. certain maternity and childcare leave benefits (subject to conditions and assuming the Child Development Co-Savings Act does not apply); and
- f. right to have key employment terms set out in their contracts.

Employers hiring PMEs earning more than S\$4,500 in basic salary a month now have to comply with the Act rather than rely purely on negotiated terms of the employment contract.

(ii) Dismissal claims

Currently, the Act defines dismissal as the termination of the contract of service of an employee by the employer, with or without notice and whether on the grounds of misconduct or otherwise.

Under the proposed amendments set out in the Bill, the definition of “dismiss” will be expanded to cover certain

situations of involuntary resignations forced upon by the employer's conduct or omission. The common practice of employers terminating employees by getting them to submit a resignation on record may now come under greater scrutiny.

(iii) Increased salary caps for Part IV benefits

Currently, Part IV of the Act which regulates rest days, work hours and other conditions of work, applies only to:

- a. workmen who are in receipt of a basic monthly salary not exceeding S\$4,500; or
- b. all employees who are in receipt of a basic monthly salary not exceeding S\$2,500.

The Bill proposes to raise the salary cap of non-workmen to a monthly salary of S\$2,600. The previous salary cap of S\$2,250 for overtime payment calculations has also been removed. The proposed amendments will benefit an additional 100,000 non-workmen.

(iv) Statutory annual leave benefit

The Bill proposes to remove the annual leave provisions from Part IV of the Act and insert these provisions into the general section of the Act, making it applicable to all employees covered under the Act.

On first glance, employers may take the view that implications on them are limited, since it is common for PMEs' leave entitlement to be above the statutory minimum of 7 to 14 days. However employers should be minded to note the other provisions relating to annual leave that may now apply to previously excluded PMEs, for example the obligation to pay an employee for unutilised annual leave upon termination (except for cases of misconduct).

(v) Dispute resolution under the Employment Claims Tribunal

Currently, employees undergo two different routes to resolve their employment-related disputes. Wrongful dismissal claims are adjudicated by the Ministry of Manpower, while salary-related disputes are first required to undergo mediation at the Tripartite Alliance for Dispute Management and are then escalated to the Employment Claims Tribunal (ECT) if mediation is not successful.

The Bill proposes to empower the ECT to provide a one-stop service for all employment-related disputes as the ECT will now be empowered to adjudicate wrongful dismissal cases (in addition to its existing powers to hear salary-related disputes).

Conclusion

In light of the extensive amendments proposed to the Act, employers should conduct reviews of their employment agreements, handbooks and practices to ensure compliance with the Act once the proposed amendments take effect.

Please do not hesitate to reach out any of the contacts herein if you have any questions relating to the Bill and how these amendments will affect your business.

Dentons Rodyk acknowledges and thanks senior associate Nicole Teo for her contribution to this article.

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