

Amendments to the Singapore Employment Act - tips for Japanese companies

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Amendments to the Singapore Employment Act

The Employment Act (Act) governs a relationship between an employer and an employee, including the terms of employment, rights and obligations on both parties. It was enacted in 1968 and amended several times. The current Act has limited application, especially for executives, professionals and managers (PMEs). They are precluded from the application of the Act (save junior PME's who are protected by meeting certain requirements) and their relationships are governed by contract where the Act does not apply. Given the employment landscape changes over the years, PME's make up almost half of the Singaporean workforce today. The amendments will extend the scope of application of the Act to all core employees including PME's to provide them with minimum legal protection with respect to the conditions of work. Additional 430,000 PME's will be covered by the Act after the amendments are implemented.

This article will introduce the key changes in relation to the PME's with respect to leave and dispute resolution as well as provide insights for Japanese subsidiaries in Singapore in terms of compliance with the amended Act.

(1) Paid statutory leave for PME's

The amended Act will apply to all employees including PME's (excluding seamen, domestic workers and others, which are the same exclusions in the current Act) and the paid leave entitlements under the current Act would be extended to cover PME's. The statutory leave entitlements applicable to the PME's include:

- a. 7 days' paid annual leave (deleted from Part IV and set out under Part X).
- b. 11 days' paid public holidays.
- c. 14 days' paid sick leave (out-patient).
- d. 60 days' paid hospitalisation leave (inclusive of 14 days' medical leave).
- e. Maternity leave and childcare leave under the Act. (Parents of a Singaporean citizen child will be protected under the separate Act).

However, the provisions in Part IV of the Act would not apply to certain employees/PME's because this part would only apply to those who earn monthly wages not exceeding S\$2,600 (for non-workmen; threshold increased by S\$100) or S\$4,500 (for workmen) respectively. Part IV includes the basic welfare of employees and conditions of employment, and importantly, the hours of work, shift work and overtime payment as well as entitlement to retrenchment benefits. The PME's would not be eligible for the Part IV benefits unless they earn less than S\$2,600 or specific conditions are provided in their contract.

(2) Terms relating to salary payment

The other provisions under the current Act which are not under Part IV will also be extended to cover the PMEs, including the rules relating to timely payment of salary, calculation formula for daily wage rate and pro-rata, provision of an itemised payslip and written key employment terms.

(3) Dispute resolutions

Under the current Act, aggrieved PMEs who need help with respect to wrongful dismissal or non-payment of salary have no choice but to go to the court as they are not eligible to apply for their claims to be heard by the Employment Claims Tribunals (ECT), which will incur lower legal costs than litigation (provided all other general eligibility requirements are met). Under the amended Act, such PMEs will have access to the ECT.

(4) Checklist for the Japanese companies

Under the current Act, many Japanese expatriates are not covered by the Act as they are mostly executives earning more than S\$4,500 per month. However, the amended Act will capture all PMEs, including Japanese or any foreign expatriates, too. There is no specific or general exclusion provided for foreign employees under the current and amended Act.

If the Singapore subsidiary of a Japanese company adopts the Japanese terms of employment for their expatriates working in Singapore without any local modification, it may have to review and customise the local terms in order to comply with new Singapore's statutory requirements. For example, the standard Japanese employment terms do not provide for paid sick leave as it is not mandatory in Japan. That will not comply with the amended Act and hence will be illegal in Singapore.

Many Japanese subsidiaries hire Singaporeans and Singapore permanent residents who are PMEs, too. Although the current Act does not apply to them, their existing employment contracts may have already provided them with equivalent paid leave for the local employees as the statutory leave looks fairly standard. However, Japanese companies should also check if other leave related conditions under the Act are met, such as the payment of unconsumed annual leave on termination of employment (other than dismissal cases) and formula for calculating such payment, i.e. gross rate of pay as prescribed by the Act.

Japanese companies that wish to introduce paid statutory leave (including related conditions as set out above) for PMEs should also introduce appropriate internal rules and procedures, which are clear and practical. It is to prevent such entitlements from being abused, misunderstood by employees or the management. For example, under the Act a medical certificate issued by an employer appointed medical practitioner must be produced for any paid sick/hospitalisation leave taken. Japanese managers may not be familiar with such a certificate as it is uncommon in Japan. Japanese companies are therefore advised to have internal rules, including a list of the company's panel doctors, when and whom leave application should be submitted/approved/recorded and procedures of medical reimbursement. Expenses for medical fees should be borne by the employer for the taking of sick leave under the Act.

Japanese companies are advised to prepare themselves to ensure that their terms of employment applicable to their Japanese expatriates and local PMEs will meet the statutory requirements. Non-compliance will attract penalties. The existing employment contract and/or handbook, including their procedures, may have to be reviewed in order to ensure the compliance with the amended Act. The Bill was introduced on 2 October 2018 and will be implemented by April 2019.

For full Japanese article, please [click here](#).

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