

# Proposed Amendments to the Employment Act

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## 1. Introduction

The Employment Act (Cap. 91) of Singapore (the “Act”) regulates the employment aspect in Singapore and prescribes basic employment benefits and protection such as minimum employment terms for certain categories of employees in Singapore. The Ministry of Manpower (“MOM”) is currently proposing several amendments to repeal and amend certain provisions of the Act (the “Proposed Amendments”).

The MOM has indicated that the primary objective of the Proposed Amendments is to ensure the Act remains relevant, updated and in line with the changes in the labour market, the increase in the proportion of professionals, managers, executives and technicians and the rise in median wages since the significant amendments last made to the Act in 1995.

## 2. Executive Summary

The Proposed Amendments contemplated by the MOM include the following which are discussed in greater detail hereafter:

- Expanding the categories of employees under the Act such as allowing junior managers and executives earning a basic monthly salary of S\$2,500 or below access to the Labour Court for salary claims and removing the exclusion of persons employed in a confidential position from the Act
- Reviewing the employment benefits under the Act including extending paid public holiday and paid sick leave entitlements to all employees covered under the Act and shortening qualifying period for paid sick leave to three months
- Reviewing the maximum financial penalties against infringements under the Act
- Rationalising the outdated provisions of the Act such as recognising medical certificates issued by public medical institutes and updating the definition of “medical officers” under the Act to include doctors employed in polyclinics and specialty institutes

## 3. Expanding categories of employees

Pursuant to the existing Section 2 of the Act, persons holding positions of managers and executives do not fall within the definition of an “employee” under the Act as they are deemed to be able to protect their interests via civil claims. The MOM noted that the most common type of employment claims reported involved managers and executives as complainants who earn a basic salary of S\$2,500 or below, and civil claims could be costly and protracted to this category of employees. Accordingly, the MOM has proposed that managers and executives who earn a basic salary of S\$2,500 or below be allowed access to the Labour Court under the Act for employment claims such as outstanding salaries.

Under the existing Section 2 of the Act, persons employed in a confidential position (such as accounting assistants, human resources clerks and secretaries who are allowed access to confidential information) do not fall within the definition of an “employee”. Further, Part IV of the Act in relation to the statutory minimum rest days, hours of work, holidays and other conditions of service are applicable to all workmen and non-workmen employees whose monthly salary does not exceed S\$1,600 (excluding overtime payments, bonus payments, annual wage supplements and other incentives and allowances). The MOM noted that corporate practices have changed over the past ten years where highly-sensitive information are now typically handled by senior management of a company, and that median wages have progressively gone up by 49% during such period. Accordingly, the MOM has proposed that (i) the said category of confidential staff be included for protection under the Act; and (ii) the monthly income ceiling for non-workmen employees be revised from S\$1,600 to S\$2,000 for the purposes of Part IV of the Act. The MOM has stated that it has received response from employers who found that certain provisions under Part IV could restrict flexibility in the employers’ scheduling over-time and rest day payment rates for high-salaried workmen. After its consultation with relevant parties, the MOM has also proposed that a monthly salary threshold of S\$4,500 be included in respect of the application of Part IV of the Act to workmen.

#### **4. Reviewing employment benefits**

Pursuant to the existing Sections 43 and 44 of the Act, employees who have served for a period of not less than three months shall be entitled to paid annual leave while those who have served for a period of not less than six months shall be entitled to both paid annual leave and paid sick leave. The MOM has proposed that the qualifying period for paid sick leave be shortened to three months in order to align such entitlement (on a pro-rated basis) with that of paid annual leave.

Provisions in relation to paid public holidays and paid sick leave entitlements are currently applicable only to workmen and non-workmen employees whose monthly salary does not exceed S\$1,600 (excluding overtime payments, bonus payments, annual wage supplements and other incentives and allowances). The MOM has proposed that such provisions be extended to all employees within the meaning of the Act.

Part-time employees are currently entitled to employment benefits such as paid holidays, paid annual leave, paid sick leave, paid childcare leave and maternity benefits (for females) on a pro-rated basis in accordance with his or her work hours. “Part-time employee” is currently defined under Section 66A(1) of the Act to mean an employee who is required to work for less than thirty hours a week under his or her contract of service. To encourage employers to offer part-time work arrangements, the MOM has proposed to revise the definition of a “part-time employee” to mean an employee who is required to work for thirty-five hours or less per week.

#### **5. Reviewing maximum financial penalties**

Section 112 of the Act currently provides that persons guilty of an offence under the Act shall be liable to, *inter alia*, a maximum fine of S\$1,000, and for a subsequent offence under the same section of the Act S\$2,000. The MOM has proposed to revise the said maximum financial penalties of S\$1,000 and S\$2,000 under the present Act to S\$5,000 and S\$10,000 respectively in order to maintain the deterrence effect of offences under the Act, with reference to the higher prescribed

penalties for similar offences under other legislations such as the Employment of Foreign Manpower Act (Cap. 91A) of Singapore and economic inflation in Singapore.

## 6. Rationalising outdated provisions

Pursuant to the existing Section 44 of the Act, employees are required to be certified by a medical practitioner appointed by the employer or a medical officer in relation to their sick leave entitlement. The term “medical officers” is defined under the Act to mean registered doctors employed by the Government or an approved hospital. However, as a result of the restructuring of public health-care facilities, registered doctors employed by polyclinics and specialty institutes would fall outside such definition of “medical officers” where medical certificates issued by this group of registered doctors would not be recognised for the purposes of Section 44. The MOM has proposed to revise the definition of “medical officers” to include registered doctors employed by polyclinics and specialty institutes such that employees will be able to have their medical certificates issued by these doctors recognised and have their consultation fees incurred therefor reimbursed.

The Portable Medical Benefits Scheme (“PMBS”) was introduced to allow employees to enjoy continuous in-patient medical coverage not only during employment but also in-between jobs, and after retirement. PMBS involves co-payments by employees from their Medisave accounts. However, under the existing provisions of the Act, employers are required to bear the cost for both in-patient and out-patient medical consultation fees incurred by employees. The MOM has proposed to rationalise the Act to take into account the situations where employers have implemented PMBS or other medical insurance plans which involve co-payments made by employees.

The MOM has also proposed to remove the restriction on collective agreements which offer maternity benefits more favourable than those stipulated in the Act as such restriction was initially introduced in 1973 to control population growth, which is no longer applicable.

## 7. Consultation period

The MOM has invited interested parties to provide their feedback and express their views on the policy positions taken and the Proposed Amendments until 22 September 2008. Interested parties may send their feedback to the MOM at its email address at [MOM\\_WPSD\\_EA@mom.gov.sg](mailto:MOM_WPSD_EA@mom.gov.sg). Alternatively, feedback filled out in the prescribed form may be facsimiled to +65 6544 0559 or posted to the following address:

Ministry of Manpower  
Workplace Policy and Strategy Division  
18 Havelock Road  
Singapore 059764

The MOM stated that it will publish a summary of the key feedback received together with its responses and that the summary will not disclose the identity of respondents, and may not separately address or acknowledge every comment received.



## Further Information

Should you have any further queries, please do not hesitate to contact the Corporate Department, Lee & Lee for Mr. Adrian Chan at [adrianchan@leenlee.com.sg](mailto:adrianchan@leenlee.com.sg) or Mr. Francis Lim at [francislim@leenlee.com.sg](mailto:francislim@leenlee.com.sg).

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