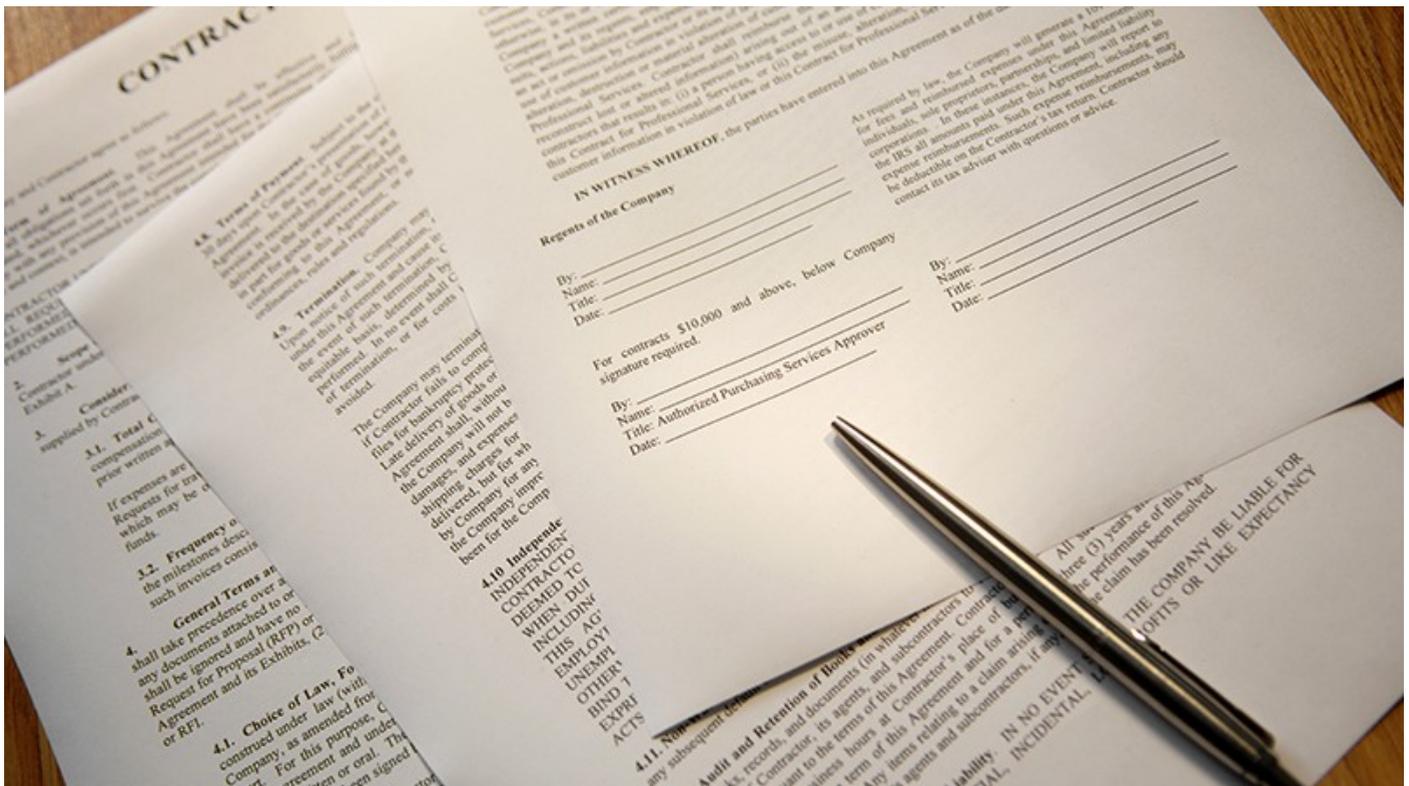


## Singapore: a snapshot of employment changes in 2014

March 24, 2015 | Written by Julia Yeo

The Singapore Parliament has rolled out a number of employment-related legislative changes. A snapshot of these changes which have recently come into force, or are due to come into force this year.



### Employment Act amendments

Most changes to the Employment Act, the principal employment legislation in Singapore, came into effect on 1 April 2014, with some coming into force from 1 April 2015.

#### Part IV protection extended to more employees

- The salary threshold for non-workmen (such as clerical and service staff) has been raised from SGD2,000 to SGD2,500 per month.
- Overtime pay is however capped at a salary level of SGD2,250 to help employers manage their business costs.

## **Greater protection for Professionals, Managers and Executives (PMEs)**

- Except for Part IV benefits, PMEs with a basic salary up to SGD4,500 per month will now enjoy protection under all other general provisions of The Act, such as sick leave benefits, salary protection and protection against unfair dismissal.
- Importantly, PMEs earning up to SGD4,500 per month who have at least 12 months' service with their employer can now seek redress for unfair dismissal through the Ministry (in addition to the usual civil claims route).

## **Ensured union representation for transferred employees**

- In a company restructuring, the collective agreement will be extended for 18 months after the date of transfer, or until the expiry of the collective agreement, for unions to represent the transferred employees in the new company.

## **Protection against excessive deductions to workers' salaries**

- Allowable salary deductions are limited to 50% of the monthly salary. Within the 50% cap, no more than 25% can be deducted for (i) housing accommodation, amenities and services provided by the employer as part of the agreed employment terms, or (ii) damages or loss caused by the employee's neglect or default.

## **Shorter eligibility period for retrenchment benefits**

- In recognition of the current trend of shorter employment tenures, from 1 April 2015, employees who have worked for 2 years (previously 3 years) will be eligible for retrenchment benefits.

## **Flexibility for employers**

- In addition to overtime pay, employers may now give time-off in lieu (of at least half a day) for PMEs who have to work on public holidays.
- Employers are not required to give paid sick leave or pay the employee's medical examination expenses for cosmetic consultations and procedures.

## **Stricter enforcements**

- First-time offenders, failing to pay employees' salaries, will be liable to a fine between SGD3,000 and SGD15,000 and/or a 6 months' prison term. For repeat offenders, the penalty will be a fine between SGD6,000 and SGD30,000 and/or 12 months' in jail.
- Individuals, such as directors and partners of the company, will also be held accountable for noncompliance, unless they can prove that they have exercised reasonable supervision or there was genuine oversight.
- Employment inspectors may enter any workplace to conduct checks, and to arrest people they reasonably believe are guilty of failure to pay salaries.

## **Industrial Relations Act Amendments**

### **Greater union representation for PMEs**

- With effect from 1 April 2015, rank-and-file unions which have been granted recognition by an employer may now represent that employer's PMEs collectively as a group on specific industrial matters, on bargaining for collective salary agreements and they can also represent PMEs in any re-employment issues.
- Senior management and specific categories of executives (such as in-house counsel, those with access to highly confidential information and those whose work has important strategic impact on the company) are

however not entitled to collective representation.

## **Personal Data Protection Act**

Though not an employment-specific legislation, the Personal Data Protection Act has a significant impact on employers in relation to the processing of their employees' personal data.

This Act requires employers to notify employees of the purpose behind the collection, use, or disclosure of their personal data and to obtain valid consent therefor. It imposes obligations on the transfer of such data out of Singapore and also imposes a limit to the retention and storage of such data.

However there are exceptions to the requirement for consent such as the use of personal data for management and termination of employment, evaluative purposes, investigative purposes and in the context of a business asset transaction.

One notable obligation is the mandatory requirement to appoint Data Protection Officer(s), responsible for the compliance with the Act.

## **Protection from Harassment Act**

The Protection from Harassment Act came into effect on 15 November 2014. It establishes statutory protection from harassment and anti-social behaviour, which includes cyber-bullying and stalking.

Its net is cast widely by:

- Open-ended definitions – non-exhaustive illustrations of offending behaviours rather than restrictive definitions of harassment
- Not restricted by location – Acts committed outside Singapore can be caught if the acts are committed against victims in Singapore
- Medium-neutral – harassment can in the form of words, behaviour, pictures or any means of communication

Offenders face a wide range of potential penalties, such as fines, imprisonment and community orders. Repeat offenders will face enhanced penalties. Victims may also seek a number of sanctions such as:

- Protection Orders, Expedited Protection Orders for victims and affected family members
- Orders to cease and desist
- Orders to remove offensive materials
- Notifications to alert readers of the false facts alleged against the victim
- Damages apart from criminal sanctions

Although it is not employment-specific legislation, the Act uses a number of workplace scenarios to illustrate what can constitute harassment. It is important that employers review their existing anti-harassment/violence policies, and internet and social media policies and educate employees on what conduct is unacceptable within the workplace.

## **Stricter enforcement of Tripartite Guidelines on Fair Employment Practices**

According to these Guidelines, job advertisements should not stipulate criteria (i.e. age requirements) unless specific attributes are necessary for the job, in which case the reason for the requirement should be stated.

There has been greater emphasis recently on the vigilant enforcement of the Guidelines. The Ministry of

Manpower has imposed various penalties for non-compliance, such as:

- the immediate removal of offending job advertisements
- the issuance of public apology
- the curtailment of work privileges, such as a bar on work pass applications

### **Introduction of the Fair Consideration Framework**

The Fair Consideration Framework, (reported on in the September 2014 edition of our International Newsletter) introduced on 1 August 2014, is a Singapore-first policy. It seeks to promote hiring and to ensure staff development practices are transparent, based on merit and are non-discriminatory towards Singaporeans.

Employers submitting Employment Pass applications for foreign employees must first advertise their job vacancies on the national Job Bank at least 14 calendar days before they can proceed with their application. The advertisement must be open to Singaporeans and must comply with the Tripartite Guidelines on Fair Employment Practices, for instance, being non-discriminatory.

Certain jobs are exempted from the advertising requirements, such as:

- companies with fewer than 25 employees
- vacancies with a fixed monthly salary of SGD 12,000 and above
- jobs filled by Intra-Corporate Transferees (a manager, executive or specialist who has worked for the firm outside Singapore for at least one year before the proposed hiring)
- short-term assignments of not more than 1 month.

### **Requirement under the Tripartite Guidelines for employers to issue payslips**

The Guidelines require all employers, as part of good HR practice, to issue itemised payslips to all employees at least once a month and within 7 days of the last day of the month. It can be issued in hard copy or in electronic form.

### **Increase in Central Provident Fund contributions**

The Central Provident Fund (CPF) is a compulsory savings plan for working Singapore citizens and Singapore permanent residents. All eligible employees and their employers must make monthly contributions.

From 1 January 2015, employers' contributions increased by:

- 1% for employees aged 50 years or less or over 65 years old
- 2% for employees aged 51-55 years;
- 1.5% for employees aged 56 - 65 years

### **What this means for employers**

The myriad of changes signifies a shift in the official attitude towards employee rights and protection. We can expect to see more employee-friendly legislation and employers being held to task for less than fair employment practices. It behoves employers to review their existing hiring practices, administrative processes, and their internal policies dealing with employee data and employee relations. Non-compliance does not just entail tangible financial penalties but may result in damages which are difficult to quantify such as reputational loss and curtailment of privileges.

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