

## Ministry of Manpower proposes new employment disputes mechanism



By Susan de Silva and Kavitha Rajan

On 27 August 2010, Singapore's Ministry of Manpower (MOM) announced proposals to augment existing employment dispute resolution mechanisms for Professionals, Managers and Executives (PMEs) and employers. According to MOM, the proportion of PMEs in Singapore's workforce has grown significantly and this trend is likely to continue. With increased economic volatility and shorter business cycles, more PMEs may face employment disputes.

Currently, PMEs may turn to the courts for dispute resolution, or if they are members of a union which has been recognised by the PME's employer, may seek representation from their unions to resolve employment disputes with the employer. MOM's proposals are:

- (i) to expand the eligibility criteria for PMEs to use the Labour Court administered by MOM for salary claims; and
- (ii) to introduce a tripartite mediation option for PMEs who are union members and whose employers are not unionised for other key employment disputes.

MOM considers that with such enhanced avenues for dispute resolution, employment disputes may be settled speedily and at low cost, and may offer the prospect of maintaining more harmonious workplace relations.<sup>1</sup>

### Key features of the new dispute resolution mechanism

#### *Adjudication for salary claims through the Labour Court*

Currently, PMEs earning a basic salary of not more than SG\$2,500 (US\$1,875) can use the adjudication process through the Labour Court for their salary claims. MOM now proposes to increase this salary ceiling to SG\$4,500 (US\$3,375), taking into account the large number of PMEs who earn up to this salary level. A new limit of SG\$20,000 (US\$15,000) will be introduced to cap the amount that may be ordered by the Labour Court for successful salary claims. PMEs who wish to claim for a higher amount will have to pursue their claims through the civil courts.

#### *New tripartite mediation for other key employment disputes*

Currently, PMEs in non-unionised companies but who are members of a trade union (for example, as a general branch member of the National Trade Union Congress (NTUC)) do not have avenues to seek representation from trade unions to resolve their individual employment disputes. Under the proposed changes, such PMEs earning a basic salary of not more than SG\$4,500 will have access to a new tripartite mediation process to resolve their employment disputes. The proposed tripartite mediation, involving MOM, the employer and the PME, aims to resolve the three most common employment disputes that arise between PMEs and their employers, namely salary claims, payment of retrenchment benefits, and issues arising from individual employment contracts.

The process for a PME to raise his dispute to tripartite mediation is as follows:

- (i) The PME must inform his trade union (or federation which his trade union is affiliated to). If the PME meets the salary eligibility criteria, the trade union (or federation) will then notify MOM on the PME's behalf, to arrange for tripartite mediation.
- (ii) MOM will lead the tripartite mediation session to assist the employer and the PME to resolve the employment dispute.
- (iii) The employer and the PME will be assisted by tripartite mediation advisors who will assist the respective parties to facilitate an amicable settlement. Tripartite mediation advisors nominated by the tripartite partners (MOM, the Singapore National Employers Federation and the NTUC) will be appointed by MOM.

The proposed tripartite mediation process will include compulsory attendance for both the PME and the employer. Repeated non-attendance by the PME or employer will result in the case being struck off for the absent PME, or penalties in the case of the absent employer.

If the dispute cannot be resolved through mediation, the PME may have to pursue his case through the civil courts. If the dispute involves salary claims, the claim may adjudicated by MOM through the Labour Court.

#### **ATMD Bird & Bird LLP**

Corporate & Commercial Group

2 Shenton Way, #18-01 SGX Centre I, Singapore

Tel: (65) 6534 5266 Fax: (65) 6223 8762

**Email:** [susan.desilva@twobirds.com](mailto:susan.desilva@twobirds.com)

[kavitha.rajan@twobirds.com](mailto:kavitha.rajan@twobirds.com)

[www.twobirds.com](http://www.twobirds.com)

1. <http://www.mom.gov.sg/newsroom/Pages/PressReleasesDetail.aspx?listid=329>