
Following Singapore’s new measures announced in September 2013 that employers ought to consider Singaporeans fairly for job opportunities\(^1\), a bill effecting significant changes to the Singapore Employment Act (Cap. 91) (the “Act”) was passed in Parliament on 12 November 2013. Most of these changes are due to take effect on 1 April 2014.

The intentions behind these changes are to:
(i) extend better protection rights to more employees (**Better Protection for Employees**);
(ii) accord flexibility to employers where desirable from a business perspective (**Flexibility for Employers**); and
(iii) enhance enforcement and compliance with the Act (**Enhancing Compliance by Employers**).

In particular, professionals, managers and executives (“**PMEs**”) earning a salary of up to S$4,500 per month who are currently awarded limited protection under the Act, as well as a greater number of low-paid employees, will gain extended statutory protection rights.

**Better Protection for Employees: more employees covered**

**PMEs** - PMEs earning a salary not exceeding S$4,500 per month currently only benefit from salary protection under the Act. With effect from 1 April 2014, they will be covered under the general provisions of the Act, gaining statutory protection against unfair dismissal, unlawful deductions from wages, minimum termination notice requirements, as well as statutory sick leave, maternity and childcare leave benefits. The Ministry of Manpower (“**MOM**”) estimates that these changes will benefit approximately 300,000 PMEs in Singapore. However, the provisions of Part IV of the Act relating to rest days and hours of work will, as is currently the case, continue not to apply to PMEs.

**Non-workmen** - In line with the increase in salary levels in Singapore, the salary threshold for employees other than workmen (e.g. clerical staff and

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\(^1\) As a reminder, please note that with effect from 1 January 2014, the qualifying salary threshold for new employment pass applications was raised from S$3,000 to S$3,300 per month. For further details, please read our October 2013 alert entitled **Employers to consider Singaporeans fairly before hiring Employment Pass holders.**
frontline service staff) to benefit from the provisions of Part IV of the Act relating to rest days and hours of work (including the maximum working hours prescribed for such employees) will be raised from a basic monthly salary of S$2,000 to S$2,500. According to MOM, an additional 150,000 employees will be covered by those provisions of the Act.

**Redress for unfair dismissal for PMEs**

**Flexibility for Employers:** PMEs earning a salary of up to S$4,500 per month will need to have served with the same employer for at least 12 months in any position (whether or not in a managerial or an executive position) to be eligible to seek redress against unfair dismissal under the Act, where notice or payment in lieu of notice is given. The rationale behind this is to provide employers time to assess suitability of the PMEs for their jobs.

**Better Protection for Employees:** However, please note that the length of service requirement will not apply to PMEs earning up to S$4,500 per month if they are dismissed without notice and without salary in lieu of notice. Accordingly, if employers decide to invoke gross misconduct or summary termination provisions, PMEs covered by the Act may, in the future, be able to bring a complaint before MOM regardless of their length of service with the employer in question if they feel that they have been dismissed without just cause or excuse.

**Flexibility for Employers: employment benefits**

- **Time-off in-lieu for PMEs:** Employers will be allowed the additional option to grant time-off in-lieu for PMEs earning a salary of up to S$4,500 per month who are required to work on public holidays, subject to mutual agreement. In the absence of mutual agreement, at least half a day off in-lieu will have to be granted by their employer if the PME has worked for up to four hours on such public holiday.

- **Flexible family-friendly leave rights:** A new formulae will be implemented under both the Act and the Child Development Co-Savings Act (Cap. 38A) to compute the minimum number of days of maternity, paternity, shared parental or adoption leave an employee is entitled to take in the situation where there is mutual agreement between the employer and employee for the leave to be taken flexibly by days instead of by block week.

- **Medical benefits:** Employers will not be obliged to grant paid sick leave or to bear medical examination expenses incurred by employees for cosmetic consultations and procedures. The assessment of whether or not a treatment is cosmetic will be based on the opinion of the medical practitioner performing the examination and providing the medical certificate. Guidance provided by the Ministry of Manpower provides that procedures such as mole removals or nose jobs would usually be cosmetic surgery. However, this may not necessarily always be the case and will have to be reviewed in the particular circumstances.

**Better Protection for Employees: retrenchment benefits**

The non-eligibility period for retrenchment benefits for employees (excluding PMEs) will be reduced from three years to two years, in line with shorter

employment tenures. This will take effect on 1 April 2015. Interestingly
though, it was decided that, in line with current practice, no minimum statutory
quantum for retrenchments benefits would be imposed and that the preferred
alternative remained for quantum to be discussed between employers,
employees and unions.

Pay

- Better Protection for Employees in relation to deductions from pay: A 25%
  sub-cap will be imposed for deductions from salary for accommodation,
amenities and services of employees covered by the Act, to prevent
excessive deductions being made. This will also fall within the existing
50% overall cap for authorised deductions. Deductions from pay for
income tax, property tax or goods and service tax payable by employees
will only be permitted in circumstances where the Comptroller of Income
Tax has either declared that employers will be agents for recovery of any
such tax or directed employers to make such deductions in relation to
employees’ emoluments and/or pensions.

- Flexibility for Employers in relation to overtime pay: Currently, employees
  earning a salary up to S$2,000 per month and workmen earning a
  salary of up to S$4,500 per month can claim overtime pay. Though the
  salary threshold of employees will be increased to S$2,500 per month
  with effect from 1 April 2014, the overtime rate payable to them
  will be capped by reference to a maximum salary of S$2,250 per month to help
  employers manage increased employment costs.

Better Protection for Employees: collective agreements in a
business transfer

At present, in the event of a business transfer, unions can only represent
employees transferred to the new employer if the pre-existing collective
agreement with their original employer remains valid. With effect from 1 April
2014, any such pre-existing collective agreement will remain in force and be
deemed to be recognised by the new employer in relation to employees
transferred for at least 18 months after the date of transfer or if later, until the
date of expiry of the collective agreement. This amendment will also be
reflected in the Industrial Relations Act (Cap. 136) for consistency.

Enhancing Compliance by Employers: employment standards

To enhance the enforcement and compliance with employment standards in
Singapore, greater penalties will be imposed in connection with breaches of
the provisions of the Act relating to the payment of salary (both during
employment and on termination):

> first-time offences will give rise to fines of between S$3,000 and
  S$15,000 and/or an imprisonment term of up to six months; and

> subsequent offences will trigger fines of between S$6,000 and S$30,000
  and/or an imprisonment term of up to 12 months.

Directors or other officers of body corporates will also be made more
accountable for offences under the Act committed by the body corporate
itself. If such individuals are primarily liable for the act or omission which
constitutes the offence and have failed to exercise reasonably supervision or oversight, they will be presumed to be negligent and held liable unless they can prove that they had exercised reasonable supervision or oversight to avoid commission of the offence.

In line with providing employees with greater protection under the Act, employment inspectors will be granted the power to arrest any person whom they reasonably believes is guilty of failures to pay salary as well as the power to enter any workplace to conduct employment audit checks without prior notice during reasonable office hours. It will be interesting to understand how often and in what circumstances these rights will be called upon in practice.

Employers will also be encouraged to provide payslips to all employees and to keep employment records for their employees. MOM will be issuing a set of Tripartite Guidelines on this matter in the first half of 2014. In addition, to assist employers comply with these requirements, MOM will make payslips booklets, downloadable payslip and employment record templates available on its website by 1 April 2014.

**Enhancing Compliance by Employers: CPF**

Finally, changes to the Central Provident Fund Act (Cap. 36) (“CPF Act”) were passed on the same day to enhance penalties for employers who breach their obligations under the CPF Act. These include new imprisonment terms not exceeding six months (or 12 months, in the case of repeat offences) and increased fines. The date on which such changes are due to become effective has yet to be announced.

If you would like to discuss the above, its implications for your existing practices and procedures and any steps which ought to be taken as a result, feel free to contact Laure de Panafieu or Denise Bryan or, alternatively, any of your other existing contacts in our Singapore office.