CHANGES TO SINGAPORE WORK PASS REQUIREMENTS

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The Ministry of Manpower ("**MOM**") announced on 27 August 2020 that in light of Singapore's weakening job market and uncertain growth outlook, MOM will update the salary requirements for Employment Pass ("**EP**") and S Pass and the job advertising requirements under the Fair Consideration Framework ("**FCF**"). These changes, as set out below, seek to support Singaporeans in securing meaningful work while ensuring that Singapore remains open to global talent and a connected hub for international businesses.

A. Tightened salary criteria for EP

General

MOM last raised the minimum qualifying salary for EP applications from S$3,600 to S$3,900 per month on 1 May 2020. With the recent announcement, this threshold will increase further for all new EP applicants from S$3,900 to S$4,500 per month from 1 September 2020. The threshold for older and more experienced candidates will be raised correspondingly, and EP applicants in their 40s will need to meet around double the minimum qualifying salary for the youngest applicants. According to MOM, this helps to ensure a level playing field for experienced local mid-career PMETs (professionals, managers, executives and technicians). However as part of MOM's staggered approach to moderate the impact of the new requirements on businesses, for EP renewal applicants, the new qualifying salary thresholds will apply only from 1 May 2021.

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Financial services sector

The recent announcement also marked the first time MOM has introduced a sector-specific higher qualifying salary, specifically in the financial services sector. The new salary requirement for EP applicants taking effect from 1 September 2020 extends to the financial services sector as well. However, the minimum qualifying salary threshold is expected to increase for entry-level EP holders in the financial services sector to S$5,000 per month from 1 December 2020. Similarly, the minimum qualifying salary for older and more experienced candidates in this sector will be raised, and the new qualifying salary thresholds will take effect for renewal applicants from 1 May 2021.

In addition, the Monetary Authority of Singapore ("**MAS**"), which worked closely with MOM to determine the updated minimum qualifying salaries, issued a press release on the same day of MOM's announcement to express its support for these changes in the financial services sector. For one, MAS opined that the salary increase will provide further support for local employment, in light of the higher salary levels in the financial services sector relative to other sectors, and how this sector remains as an important source of job opportunities that generates keen interest amongst Singapore's local talent pool. Furthermore, these changes support Singapore's financial institutions and complement MAS' own manpower development programs to expand job opportunities and enhance local capabilities.

B. Tightened salary criteria for S Pass

Increase in S Pass minimum qualifying salary

Mid-skilled foreigners in technical occupations who want to work in Singapore have to apply for an S Pass. Such applications are subject to the candidates meeting multiple eligibility criteria, including education qualification, relevant work experience and fixed monthly salary beyond a minimum qualifying monthly salary. From 1 October 2020, the minimum qualifying salary for new applicants of S Pass will be raised from S$2,400 to S$2,500. For renewal applicants, the changes to qualifying salaries will apply from 1 May 2021. Older and more experienced S Pass candidates will also have their qualifying salaries revised accordingly. The S Pass minimum qualifying salary has also been raised a number of times in recent years:

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Effective date	Increase in S Pass minimum qualifying salary
From 1 January 2019	From S$2,200 to S$2,300
From 1 January 2020	From S$2,300 to S$2,400

Reduction of S Pass sub-DRC

In addition, the number of work permit holders that an employer can hire is limited by the dependency ratio ceiling (DRC), which refers to the maximum permitted ratio of foreign workers to the total workforce that a company is allowed to hire. MOM has also confirmed that the changes in relation to the reduction of S Pass sub-DRC that were previously announced will proceed as planned:

Announcement of change	Sector	Effective date	Reduction of S Pass sub-DRC
Budget 2019	Services sector	From 1 January 2020	From 15% to 13%
		From 1 January 2021	From 13% to 10%
Budget 2020	Construction, Marine Shipyard and Process sectors	From 1 January 2021	From 20% to 18%
		From 1 January 2023	From 18% to 15%

C. Fair Consideration Framework

Extension of job advertising requirement to S Pass applications

Under the FCF, employers in Singapore are required to consider candidates fairly for job opportunities and not discriminate against candidates based on non-job related characteristics such as age, gender, nationality or race. To promote fair employment practices and improve labour market transparency, employers are generally required to advertise job vacancies on MyCareersFuture and consider all candidates fairly before submitting any application for an EP. With effect from 1 October 2020, employers will also generally be required to advertise job vacancies on MyCareersFuture and consider all candidates fairly before submitting any application for an S Pass.

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Exemption from job advertising requirement

Presently, employers are exempted from advertising job vacancies on MyCareersFuture prior to submitting any application for an EP if:

1. The company has fewer than 10 employees; MOM recognises that smaller companies may have limited resources to handle the administrative processes or are in the process of ramping up their operations. Nonetheless, such a company is still expected to consider Singaporeans fairly for jobs and MOM will take action against the employer if there is evidence of discriminatory hiring practices.
2. The fixed monthly salary for the vacancy is S$20,000 and above. MOM recognises that positions that are more senior are more likely to be market-sensitive and that candidates for such positions will usually be sourced through employment agencies rather than though open advertisements. Nonetheless, MOM expects the employer to instruct employment agencies to consider all candidates fairly based on merit and employment agencies are expected to comply with the FCF;
3. The vacancy is to be filled by an intra-corporate transferee ("**ICT**") as defined under the World Trade Organization's General Agreement on Trade in Services ("**GATS**") or any applicable free trade agreements to which Singapore is party. For instance, under the GATS, the ICT is required to be employed in the role of a Manager, Executive or Specialist and must meet the requirements of the respective role as prescribed under the GATS. In addition, the ICT must have worked for the company outside Singapore for at least 1 year and may not work in Singapore for more than 5 years (e.g. the EP will be valid for up to 3 years and may be renewed for up to 2 years); or
4. The vacancy is short-term and the period of employment in Singapore is less than 1 month in duration. If this exemption applies, the relevant EP holder will not be eligible to renew the EP nor apply for a new EP for a period of 3 months after the expiry of the existing EP.

As at the date of this article, there has not been any announcement on changes to the above exemptions and the above exemptions, to the extent relevant, are likely to apply to the job advertising requirements for S Pass applications from 1 October 2020.

Job advertising requirements

Job advertisements published on MyCareersFuture should explain the job requirements and salary clearly. Presently, advertisements that are discriminatory or do not reflect the job accurately will not fulfil the job advertising requirement for EP applications. For instance, EP applications will be rejected if the advertisement:

1. Contained discriminatory words or phrases (e.g. the selection criteria should not include age, gender, race, religion, nationality, marital status and family responsibilities unless regulatory or practical requirements are involved);
2. Was for a job that does not match the occupation in the EP application;

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3. Was for an employer that is different from the one submitting the EP application;
4. Did not advertise the salary clearly (i.e. the salary must be visible and cannot be hidden), specifically (i.e. the maximum salary range cannot exceed two times of the minimum salary) and consistently (i.e. the salary offered to the EP applicant must be within the salary range as advertised);
5. Was not opened for at least 14 days. With effect from 1 October 2020, this will be increased to 28 days;
6. Was not kept opened for an additional 14 days if there were changes to any advertisement details. As at the date of this article, MOM has not announced any increase to this requirement but we think that this may be increased to 28 days for consistency with the above change;
7. Has expired or closed for more than 3 months; and
8. Is being used for a number of EP applications which exceeds the number of job vacancies advertised in the advertisement.

As at the date of this article, there has not been any announcement on further changes to the above requirements and the above requirements, to the extent relevant, are likely to apply to the job advertising requirements for S Pass applications from 1 October 2020.

Penalties for non-compliance

Employers who do not comply with the Tripartite Guidelines on Fair Employment Practices and are found to have discriminatory hiring practices, including non-compliance with the job advertising requirements, may be faced with a range of penalties including the following:

1. Employers will be debarred from applying for new work passes and renewing existing work passes, for up to 12 months. In egregious cases, the debarment period may be up to 24 months; and
2. Employers and key personnel will be prosecuted for any false declarations that they have considered all candidates. If convicted, they will face imprisonment of up to 2 years or a fine of up to S$20,000 or both.

In addition to the above, employers with indications of discriminatory hiring practices will be placed on the FCF Watchlist for closer scrutiny. If such employers do not improve their practices, their work pass privileges may be curtailed.

D. Moving forward

The update to the EP and S Pass requirements reflect a recognition in government policy that while foreign workers are an important part of Singapore's labour market, the employment of foreign workers should be complementary and not compromise a strong Singaporean core workforce. The requirement for employers to consider Singaporeans for more middle-skilled jobs may also be a response to the growth in unemployment rate of Singaporeans as a consequence of the impact on the economy of the COVID-19

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pandemic. In this climate of economic uncertainty, these adjustments seek to assist and prioritise Singaporeans to ensure that they remain in employment.

As at the date of this article, it remains to be seen whether the increase in minimum qualifying salary for EP and S Pass applicants will have a corresponding impact on the salary criteria for Dependant's Passes for the family members of EP and S Pass holders and whether the changes are temporary measures put in place to address the adverse impacts of the COVID-19 pandemic on Singapore's economy. We will release further updates as and when such information becomes available.

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