

# EMPLOYMENT ACT REVIEW: UPDATE

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In our [CNPupdate of 23 February 2018](#), we highlighted 3 areas of review of the Employment Act (“EA”) which the Ministry of Manpower are looking into. In particular:

- Whether the core provisions of the EA (e.g. provisions relating to public holiday and sick leave entitlements, payment of salary and allowable deductions, and redress for wrongful dismissal) should be extended to all employees;
- What would be an appropriate level for the salary thresholds of more vulnerable employees receiving additional protection under Part IV of the EA (e.g. time-based provisions such as annual leave, hours of work, overtime pay and rest day); and
- How the provisions and processes for dispute resolution can be more streamlined for employees and employers.

Following the public consultation on the aforesaid areas of the EA (from 18 January 2018 to 15 February 2018), the Manpower Minister Lim Swee Say (“**Mr Lim**”) announced in Parliament on 5 March 2018 that the proposed changes to the EA will likely be tabled in Parliament in September 2018 and implemented by 1 April 2019. The proposed changes to the EA are as follows:

- The core provisions of the EA will be extended to all workers except public servants, domestic workers and seafarers;
- Part IV of the EA will be extended to all non-workmen earning a monthly salary of up to S\$2,600;
- The cap on the overtime rate payable for non-workmen will be increased to a salary level of S\$2,500;

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and

- The Employment Claims Tribunals (“ECT”) will be empowered to hear both salary-related disputes and wrongful dismissal claims.

## Core provisions of the EA

The EA, when first introduced in Singapore in 1968, did not afford any legal protection to professionals, managers and executives (“PMEs”).

The EA was amended in 2008 to extend certain provisions in the EA (e.g. provisions relating to the payment of salary) to PMEs earning a monthly salary of up to S\$2,500. The amendment sought to assist more junior PMEs with the recovery of salary claims, as they often find it costly to take up civil suits to recover salary arrears. Subsequently, the EA was amended in 2010 to raise the abovementioned salary cap of PMEs to S\$4,500. The amendment recognized the growing proportion of PMEs within the workforce and extended the employment disputes resolution mechanism in the EA to more PMEs. As the proportion of PMEs within the workforce continued to grow, the EA was amended again in 2013 to extend the protection accorded by the core provisions of the EA apply to all PMEs earning a monthly salary of up to S\$4,500.

The proposed amendment to remove the abovementioned salary cap of PMEs is a timely acknowledgement that PMEs, which currently make up approximately one-third of Singapore's resident workforce, should be afforded with the same level of protection and benefits that other workers are receiving under the core provisions of the EA.

## Additional protection for vulnerable employees

When the EA was first enacted in 1968, Part IV of the EA only applied to employees (both workmen and non-workmen) earning a monthly salary of up to S\$750. Following the amendments to the EA in 1995, 2008 and 2013, the salary threshold for non-workmen was raised from S\$750 to S\$1,600 in 1995, S\$2,000 in 2008 and then S\$2,500 in 2013 to reflect the general salary increases over the years.

With the proposed amendment to raise the salary threshold for non-workmen to S\$2,600, Part IV of the EA will extend to half of the workforce.

In addition to the above, the proposed increase in the cap on the overtime rate payable for non-workmen to S\$2,500 is also in line with the general increase in the salary of employees over the years.

The salary cap was introduced in 2013 to help employers manage overtime costs. At the moment, the overtime rate payable for a non-workman is capped at a monthly salary level of S\$2,250. In particular, the Fourth Schedule of the EA states that:

- For a non-workman whose monthly salary is less than S\$2,250, the hourly rate of overtime pay is (12

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$\times S\$2,250) / (52 \times 44)$ .

- For a non-workman whose monthly basic rate of pay is S\$2,250 or more, the hourly rate of overtime pay is  $(12 \times \text{monthly salary}) / (52 \times 44)$ .

## Dispute resolution services

At the present moment, salary-related disputes are heard before the ECT pursuant to the Employment Claims Act 2016. On the other hand, wrongful dismissal claims are heard before the Ministry of Manpower pursuant to section 14(2) of the Employment Act.

However, wrongful dismissal and salary claims often arise in the same instance. For example, an employee who is claiming that he/she was wrongfully terminated by his/her employer may also want to bring a claim for non-payment of salary in lieu of notice. In such a scenario, it would be more efficient for the ECT to hear and adjudicate both claims instead of making the employee appear before different bodies to have his/her claims resolved. Streamlining the dispute resolution services provided by the ECT would achieve this result.

## Conclusion

In light of the changes in Singapore's workforce (i.e. the increase in the proportion of PMEs) and the general increase in salaries over the years, the proposed amendments to the EA are no doubt timely to ensure that the EA remains relevant.

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