

EMPLOYMENT LAW AMENDMENTS

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The Employment Act ("EA"), the Child Development Co-Savings Act ("CDCSA"), the Central Provident Fund ("CPF") Act and other employment related law were amended recently following extensive review by employers, unions and the Government in early 2013. The majority of the amendments will take effect on 1 April 2014 and will affect a significant portion of companies and employees.

Better coverage for a greater number of workers

More provisions of the EA, including sick leave benefits and protection against unfair dismissal, will be extended to Professionals, Managers and Executives (PMEs) earning less than \$4,500. PMEs were previously only covered by a limited number of provisions in the EA.

The provisions in the EA governing working hours, which typically cover lower-wage workers such as clerical and frontline service staff, will be extended to cover (non-workmen) workers earning up to \$2,500, up from \$2,000 previously.

A 25% cap will be imposed on deductions to employees' salaries for accommodation, amenities and services paid for by the employer. Other deductions (e.g., for payment of income tax, recovery of loans, absence from work, etc.) are not affected by this 25% cap, but the sum total of all deductions must not exceed 50% of the salary.

Employees represented by unions in pre-existing collective agreements will continue to be covered, until they expire or up to 18 months, whichever is later, on a statutory transfer of their employment as a result of a transfer of undertaking (or part thereof). The agreement will remain valid even if the original transferor company undergoes restructuring.

In line with shorter employment tenures, workers who have worked for two years or more may now be entitled to retrenchment benefits. This particular amendment takes effect in April 2015.

Balancing the need to keep businesses competitive

Although workers earning up to \$2,500 (previously \$2,000) may now claim overtime pay, calculations for overtime rates will be capped at \$2,250 to help businesses manage costs.

Greater penalties for non-compliance, stronger enforcement powers

Individuals, such as directors of companies or partners, may now be held personally accountable for EA offences if they are primarily responsible for the offence and have failed to exercise reasonable supervision or oversight.

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The penalties for failure to pay salaries in accordance with the EA will be raised. For the first offence, a fine of between \$3,000 to \$15,000 and/or 6 months' jail. For the second offence, a fine of between \$6,000 and \$30,000 and/or 12 months' jail. Composition fines will be increased from \$1,000 to \$5,000.

Similar increases in penalties have also been made to the CPF Act for non-payment or late payment of CPF contributions. The fine for first-time offenders has been doubled from \$2,500 to \$5,000, and a mandatory minimum fine of \$1,000 will be imposed for each charge.

Employment inspectors will be granted the power to arrest, without a warrant, any person whom he believes is guilty failure to pay salary. They can also enter premises, at any reasonable time, without previous notice to conduct checks.

Removing uncertainty in the calculation of parenthood leave periods

Amendments made to the CDCSA will provide greater certainty for both employers and employees in computing the minimum number of days of parenthood leave an employee is entitled to. Subject to agreement, an employee may choose to take portions of the leave period flexibly, by days instead of in weekly blocks.

The CDCSA will also be updated to reflect the policy that parents' total childcare and extended childcare leave are to be based on their youngest qualifying Singapore Citizen child. This removes any confusion where a double claim could occur under the EA and the CDCSA.

What these changes mean for employees and employers

The amendments to the various employment-related Acts were made to enhance employment protection for workers through various measures, including strengthening the enforcement and compliance with employment standards.

The EA will now cover a larger proportion of workers, and breaches of the EA and CPF Act now attract harsher penalties. At the same time the amendments, especially those concerning overtime pay and retrenchment benefits, have been tempered by the recognition that business costs must be kept manageable for the employment market to remain robust and competitive.

Potentially confusing provisions, especially those relating to parenthood benefits and other medical fees, have also been clarified and this would better allow employers to manage their obligations.

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