

EMPLOYMENT LAW GUIDE: DISPUTE RESOLUTION

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(a) Mediation and conciliation

Aside from the usual dispute resolution avenues (e.g. through litigation or arbitration), there are also mediation services offered by the Tripartite Alliance for Dispute Management (“**TADM**”) or conciliation services offered by MOM for employment disputes.

The IRA offers eligible executives the Tripartite Mediation Framework (for mediation assisted by their union recognised under the Industrial Relations Act to collectively represent rank-and-file employees). An employer who fails to take part in the mediation without reasonable excuse could be fined up to S\$5,000, although employers may have the right to object to the eligibility of an executive employee to tripartite mediation, but only on the limited grounds prescribed under the IRA.

(b) Employment Claims Tribunal (“ECT”)

The ECT is established under the Employment Claims Act (No. 21 of 2016) (“**ECA**”) and adjudicates salary-related and wrongful dismissal claims for *all* employees under the EA.

The ECT is a tribunal under the State Courts, similar to the Small Claims Tribunal. The key features of the ECT are as follows:

- **Who the ECT covers:** any employee protected under the EA who has an employment contract with their employer, regardless of their salary level. Public servants, domestic workers and seafarers will be excluded.
- **Types of claims covered:** the ECT handles specified wrongful dismissal claims, contractual disputes and statutory dispute matters as provided under the ECA.
- **Compulsory mediation, pre-ECT:** compulsory mediation conducted by the TADM before claims are heard by the ECT.
- **Fees for mediation pre-ECT:**

Wrongful dismissal disputes, and other specified contractual disputes and statutory disputes:

- S\$10 where the total amount alleged to be payable in respect of the dispute is S\$10,000 or below; and
- S\$20 where the total amount alleged to be payable in respect of the dispute exceeds S\$10,000.
- **Filing fees for a claim at the ECT:**

Wrongful dismissal disputes, and other specified contractual disputes and statutory disputes:

- S\$30 where the total amount alleged to be payable in respect of the dispute is S\$10,000 or below; and

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- \$60 where the total amount alleged to be payable in respect of the dispute exceeds \$10,000.
- **Limit on claims amount:** \$20,000 per claim ordinarily, but \$30,000 per claim for claimants who go through the Tripartite Mediation Framework prescribed under the IRA.
- **Time limit to file claim:**

Mediation –

- (for wrongful dismissal dispute in relating to a claim in section 14(2) of the EA) - within 1 month of the dismissal of the employee;
- (for other claims not involving re-employment under the RRA, claims relating to liability of principals, contractors and subcontractors for workman salary and wrongful dismissal claims) - within 1 year from date on which claim arises; or if employment has ceased, within 6 months of end of employment for claims.

Filing claim with ECT – within 4 weeks after the issue of the Claim Referral Certificate from the TADM mediator.

- **Restriction on contracting out:** Any provision in any agreement (whether made before, on or after the date of commencement of the ECA) is void to the extent that it purports (a) to exclude or limit the jurisdiction of a tribunal; or (b) to prevent a person from submitting a mediation request; or making a claim, an application or an appeal under section 28 of the ECA.
- **No legal representation before the ECT:** Lawyers are not allowed to represent any party in proceedings before the ECT.
- **No concurrent representation under the IRA is allowed:** a dismissed employee is prohibited from concurrently lodging a claim with the ECT and making representations to the Minister under section 35(3) of the IRA.

Under the ECA, parties with a salary-related or wrongful dismissal dispute must first submit a mediation request and go through mediation at the TADM before they may proceed to bring a claim to the ECT. A claim referral certificate must be obtained from an approved mediator at the TADM before a claim may be lodged at the ECT. The claim referral certificate will be issued if:

- the respondent is given reasonable notice of, but does not attend, the mediation for that dispute;
- no settlement is reached at the end of the mediation in relation to one or more of the specified employment disputes listed in the mediation request; or
- the approved mediator is satisfied that there is no reasonable prospect of settling through mediation the specified employment dispute.

Where a specified employment dispute is settled at a mediation, the parties must enter into a signed settlement agreement and the total amount payable to a party under the settlement agreement must not exceed the prescribed claim limit under the ECT (please refer to the relevant claim limits above). This

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settlement agreement may be registered with the District Court which will have the same force and effect as if the settlement agreement had been a judgment given in the District Court.

From 7 January 2019, the Community Justice and Tribunals System (“**CJTS**”) - an e-filing and case management system has been launched to allow parties to employment disputes to register settlement agreements, file dispute claims, submit and view documents, monitor case developments, select a preferred court date and pay filing fees, without having to travel to the State Courts. They may also be notified of case developments and hearing dates by SMS and e-mail. Individuals can access the CJTS with their SingPass, and corporate entities with their CorpPass. Those with no SingPass or CorpPass may apply for a CJTS Pass to access the CJTS.

Salient features of the CJTS include: (i) e-negotiation service - parties may try to reach an amicable settlement without going to court. For example, when a settlement offer is made, the claimant will be notified to log on and consider the offer or make – counter offer. (ii) e-mediation service - If parties agree to e-mediation, the ECT will schedule an online chat session with a court mediator. If a settlement is reached via either e-negotiation or e-mediation, parties may register the settlement agreement recorded and apply online for a consent order. If mediation at TADM is unsuccessful, parties can file their claim together with the claim referral certificate online immediately.

Since 1 April 2017, 94% of the total number (1,696) of employment claims filed at the ECT have been concluded as at 30 November 2018; of which 71% were resolved before proceeding to a court hearing.

(c) Hearings before the Commissioner for Labour (MOM)

After the creation of the ECT, which takes over from the Commissioner for Labour (Ministry of Manpower) (also known colloquially as the “Labour Court”, the Labour Court’s function of resolving salary disputes, the Labour Court will continue to hear claims relating to the transfer of employment under section 18A of the EA, claims for workmen compensation, claims for non-salary related disputes and claims related to the recovery of salary not paid in legal tender, among other things.

Please note that this section of the Employment Law Guide is a summary provided for general information purposes, aimed at aiding understanding of Singapore’s employment law as at the date of writing. It is not exhaustive or comprehensive and reading this memorandum is not a substitute for reading the text of the various statutes to fully understand the extent of the obligations owed. This guide should also not be relied upon as legal advice.

Read The Other Sections of The Employment Law Guide

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