

EMPLOYMENT LAW GUIDE: EMPLOYMENT OF FOREIGN MANPOWER

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(a) Work pass requirements

Non-Singapore resident individuals are required to hold a valid work pass before they can work in Singapore. Foreigners performing certain activities in Singapore for short durations may engage in these activities without a work pass provided they submit an e-notification to inform MOM.

There are various work passes an individual can apply for depending on the nature of their work.

Professionals – managerial, executive or specialised jobs

- Employment Pass: Fixed monthly salary of at least S\$3,600 (Nevertheless, do note that more experienced candidates will require higher salaries) and acceptable qualifications. Must be cancelled on termination of employment. From 1 May 2020, the minimum qualifying salary will be raised from **\$3,600** to \$3,900 for new applications. The salary criteria for older, more experienced candidates will also be raised in tandem. The new salary criteria will apply to renewal applications from 1 May 2021.
- Personalised Employment Pass: granted on applicant's merit and not tied to employer. Last drawn fixed monthly salary overseas of at least S\$18,000 and within 6 months of application; or employment pass holder with fixed monthly salary of at least S\$12,000.
- EntrePass: For foreign entrepreneurs intending to start a business in Singapore.

Mid-level – e.g. technicians

- S Pass: Applicable to mid-level skilled workers who earn a fixed monthly salary of at least S\$2,400. Applicants are assessed based on salary, education, skills, job type and work experience.

Skilled & Semi Skilled workers – workers from an approved source country/territory

- Work Permit: Issued to foreign unskilled workers generally for up to 2 years depending on worker's passport validity, Banker's/Insurance Guarantee, worker's employment period.

Others

- Dependant's pass: Issued to legally married spouse or unmarried children under 21 years of EP or S Pass holders if the EP or SP holder is earning a fixed monthly salary of at least S\$6,000.
- Long Term Visit ("LTV") pass: EP and S Pass holders earning a fixed monthly salary at least S\$6,000 can apply for a LTV pass for their spouse, unmarried step children under 21 years or unmarried handicapped children above 21 years. EP and S Pass holders earning a fixed monthly salary at least S\$12,000 may also apply for a LTV pass for their parents.

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The Employment of Foreign Manpower (Work Passes) Regulations 2012 provide that work passes (whether work permit (including a training work permit), S pass, employment pass (including a training employment pass), any of which may be relevant to an employer) may be cancelled on application to the Controller of Work Passes (“**Controller**”) made (a) by the employer of the foreign employee or on behalf of the employer by an authorised representative, and (b) in such form and manner as the Controller may determine.

The MOM guidelines indicate that:

- a work pass must be cancelled within 7 days of the date of termination of employment by either the employer or an authorised representative of the employer. The cancellation may be completed electronically through WP Online, in the case of a work permit (including a training work permit), or through EP Online, in the case of an S pass or an employment pass (including a training employment pass), both accessible through the website of the MOM;
- the MOM will issue a 30-day short term visit pass upon cancellation of an S pass or an employment pass (including a training employment pass) to enable the pass holder to prepare for his/her departure from Singapore;
- when the main employment pass or S pass is cancelled, all other related passes (i.e. dependant's pass and/or LTV pass) are deemed cancelled. The dependant's pass and/or LTV pass may be cancelled along with the main employment pass or S pass electronically through EP Online.

(b) Fair employment practices/Fair Consideration Framework

Article 12 of the Singapore Constitution guarantees equal protection against discrimination towards Singapore citizens on the ground of religion, race, descent or place of birth, but does not invalidate employment restrictions connected with the religious affairs or of religious institutions. Further protections against age-related discrimination can be found in the RRA, while pregnant mothers cannot be dismissed without sufficient cause during their pregnancy under the EA or the CDCSA.

Under the ‘Fair Consideration Framework’ (the “**FCF**”) implemented by MOM, firms submitting employment pass applications are required to advertise the job vacancies on a jobs bank administered by Workforce Singapore for at least 2 weeks before opening the position up to foreigners. The advertisements have to comply with the Tripartite Guidelines on Fair Employment Practices and should avoid stating a preference for nationality, age, race, language, gender, marital status, family responsibilities and religion. However, the following situations are exempted from the advertising requirement: (i) small firms with fewer than 10 employees, (ii) jobs which pay a fixed monthly salary of S\$15,000 and above; and (iii) The job is necessary for short-term contingencies (i.e., period of employment in Singapore for not more than one month) - will be exempted from the advertising requirements (assuming that these companies do not practice nationality-based or other discriminatory HR practices and have not had their work pass privileges curtailed).

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MOM and other government agencies will also identify businesses which, in their view, have scope to improve their hiring practices (e.g. firms with disproportionately low concentration of Singaporeans at the professional, managerial and executive level compared to others in the same industry or have repeated complaints of nationality-based or other discriminatory hiring practices).

In February 2020, MOM announced that the penalties for non-compliance with the FCF have been toughened and released details on its website regarding the nature of those penalties. The penalties include a minimum 12 month ban on all forms of work passes being issued, with a ban of up to 24 months in egregious cases; and scope for the ban to cover not only the issuing of new work passes, but also the renewal of existing work passes. In addition, MOM has made it clear that it will prosecute employers (including key personnel within companies) who falsely declare that they have considered candidates fairly. The requirements of the FCF should be complied with and accurate records kept of why a foreign employee was ultimately preferred over a Singaporean candidate.

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.

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