

# Singapore: Changes to the Employment Act – further updates

December 7, 2018

## In brief

Subsequent to the announcement made earlier in the year of proposed changes to the Employment Act (EA), the Employment Amendment Bill (the Bill) was passed in Parliament on November 20, 2018. These changes to the EA will take effect from April 1, 2019.

We highlight below some of the significant changes to the EA, with a comparison to the existing legislation. We encourage employers having business presence in Singapore to review their current HR policies against the benefits provisions mandated under the amended EA. They should also review entire end-to-end HR processes to ensure compliance with this legislation.

## In detail

	Current legislation	Amended legislation
<b>Core provisions</b>	Core provisions of the EA cover all employees except managers and executives earning above \$4,500 per month.	The salary cap of \$4,500 will be removed; thus, core provisions will be applied to all employees.
<b>Dismissal</b>	Dismissal is indicated as termination of service of an employee by his/her employer, with or without notice and whether on the grounds of misconduct or otherwise.	Dismissal includes the concept of constructive dismissal, where an employee resigns due to a hostile work environment.
	<p>Where an employee considers that he/she has been dismissed without just cause or excuse by the employer, he/she may make representations to the Minister (of Manpower) to be reinstated.</p> <p>The employee will also be paid an amount equivalent to the wages that he/she would have earned if not dismissed.</p>	<p>In the case of unfair dismissal, an employee may claim one of the following:</p> <ul style="list-style-type: none"> <li>• Reinstatement in his/her former employment; and</li> <li>• Equivalent wages for the period if he/she had not been dismissed; or</li> <li>• Compensation determined by the Tribunal.</li> </ul> <p>This provision also covers unfair dismissal of a female employee on the basis of pregnancy only and without sufficient cause.</p>

	Current legislation	Amended legislation
<b>Misconduct</b>	<p>In the case of possible misconduct by the employee, the employer may undertake an inquiry.</p> <p>During this period, the employee may be suspended from work for a period of not more than one week.</p> <p>The employee also must be paid not less than half his/her salary for such period.</p>	<p>In the case of an inquiry, the employer may suspend the employee:</p> <ul style="list-style-type: none"> <li>• For a period not exceeding one week; or</li> <li>• Apply to the Ministry of Manpower (MOM) for a longer period pending misconduct investigations.</li> </ul> <p>The employer is still required to pay the employee at half his salary during such period of suspension.</p>
<b>Salary deductions</b>	<p>Only specific deductions indicated in the EA can be made from an employee's pay. For any other item, application must be made to the MOM for approval of such deduction.</p>	<p>All kinds of deductions to be allowed (in addition to the specifically prescribed ones), if there is written consent by the employee.</p> <p>Employees can withdraw consent of any deduction by giving written notice of the withdrawal.</p>
<b>Annual leave</b>	<p>Paid annual leave entitlement is sited under Part IV of the EA, which covers workmen earning base salary of up to \$4,500 a month and employees (other than workmen) earning a base salary of up to \$2,500 per month.</p>	<p>The section on paid annual leave entitlement has been moved to new section (88A), which will apply to all employees who are covered under the EA.</p> <p>Paid annual leave can be carried forward for another 12 months after the end of the employment period to which the leave relates. This applies to employees who are covered under Part IV of the EA only.</p> <p>Employees can encash accrued, unused annual leave upon termination of employment (except if this is on grounds of misconduct).</p> <p>Employees required to work on annual leave must be paid an extra day's salary.</p> <p>All employees now will be entitled to public holidays, sick leave as well as annual leave.</p>
<b>Key Employment Terms (KETs) and payslips</b>	<p>KETs are required to be issued to employees who are covered under the EA under the current regulations.</p>	<p>Based on the proposed changes, all employees must be issued KETs and payslips.</p>

	Current legislation	Amended legislation
<b>Transfer of employees under a sale or restructure</b>	<p>Only employees covered under the EA must be transferred to the new entity.</p> <p>The terms and conditions under their existing employment contracts will continue.</p>	<p>All employees must be transferred to the new entity.</p> <p>The terms and conditions under their existing employment contracts remain unchanged.</p> <p>Continuity of service will be preserved.</p>

**The takeaway**

The changes to the EA have been made to reflect the changing profile of Singapore’s labor force and employment practices, and is intended to strengthen the governance and compliance of Singapore employment legislation.

The amended legislation will come into effect on **April 1, 2019**, so organizations must assess their operational readiness to incorporate the changes within the next few months.

Two key areas to focus on include:

<b>Employee termination/dismissal</b>	Employers should be cognizant that the amended legislation provides the option, in the case of unfair dismissals, for the company to pay compensation to the employee in question, by an amount determined by the Tribunal.
<b>Annual leave</b>	Organizations will be required to provide paid annual leave to <b>all</b> employees instead of merely those who fall under Part IV of the EA (workmen earning base salary of up to \$4,500 and other employees earning base salary of not more than \$2,500).

In preparing for the amended legislation, organizations will need to:

- Review the profile of all employees to validate whether their current benefit provisions meet the changes, at a minimum.
- Check to ensure that end-to-end HR processes are sufficiently robust to minimize employee disputes.
- Implement any changes before April 1, 2019 and communicate these to all employees ahead of time.

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**Let's talk**

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For more discussion on the above, please contact your regular Global Mobility Services engagement team or one of the following team members:

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