Amendment to the Regulation for determining the average salary effective from 01 April 2022

Minister of Labour and Social Protection ("MLSP") made an amendment to the Regulation for determining the average salary ("Average Salary Regulation") on 17 March 2022 and it will be effective from 01 April 2022 (the "Amendment"). The Amendment was registered with the Ministry of Justice and Home Affairs on 31 March 2022.

The main objective of the Average Salary Regulation is to define the salary component and a reference period for calculating additional pays including overtime pay, nightshift pay and others and some statutory allowances. Upon commencement of the Average Salary Regulation from 01 January 2022, additional pays under the Labour Law are to be calculated on the basis of employee’s previous 3-month average salary which comprise of 1) base salary; 2) extra pay; 3) additional pay; 4) annual vacation pay and 5) bonuses.

The Average Salary Regulation has been criticised by employers as the regulation led to artificial and exponential increase of salaries of employees who work in shift/roster arrangements while outputs or working hours of employees were not increased due to the new method introduced thereafter. It is understood that MLSP introduced the Amendment in order to fix the negative implications of the regulation on employers.

The Amendment provides an option that employers may exclude additional pay and one-off bonuses from the salary component which is used for calculating average salary of employees for the purpose determining the amount of additional pays. In this case, the salary component used for average salary calculation may comprise of 1) base salary; 2) extra pay and 3) annual vacation pay.

The Amendment does not have retrospective application.

Application of the Average Salary Regulation and the Amendment is illustrated below:

What has changed?

For more in-depth discussion about the Amendment and any other questions you may have, please do not hesitate to contact us.

For details of the Amendment, please visit https://legalinfo.mn/mn/detail?lawId=16468248973651&showType=1

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