

Luther.

# Employment Law Update

Upcoming changes  
to Singapore  
employment law  
in 2017

Singapore News

2017 entails several changes to Singapore employment law which will impose new and extensive obligations on employers. The amendments inter alia relate to entrenchment information obligations, maternity, paternity and shared parental leave and re-employment of older workers. The landmark change however lies in the establishment of the Employment Claims Tribunal which allows a new, more cost-efficient and facilitated avenue to dispute resolution in salary-related conflicts.

The following update will point out important changes to Singapore employment law which will take effect in 2017.

### Retirement and Re-employment

On 9<sup>th</sup> January 2017 the Re-employment (Amendment) Bill 2016 (Bill No. 36 of 2016) was passed by Parliament and brings about changes to the Retirement and Re-employment Act 2016. Taking effect on 1<sup>st</sup> July 2017 it raises the age for re-employment from 65 to 67. As a consequence, employers are to offer re-employment to eligible workers at the age from 62 to 67.

Currently, if the employer does not offer suitable re-employment, e.g. for reasons of lack of vacancy, he will be obliged to pay an Employment Assistance Payment instead. In order to increase market flexibility, the Re-employment Bill introduces the option for the current employer to alternately offer re-employment by another company. However, for reasons of employee protection consent of the employee is necessary and the new employer must be willing to fulfill re-employment obligations stipulated by law.

Eligibility for re-employment requires the employee to be a Singapore citizen or a Singapore permanent resident and that he has served the current employer for at least three years before turning 62 years old. According to the employer's assessment, the employee must have performed satisfactorily during employment and generally be medically fit to continue working.

For persons born between 1<sup>st</sup> January 1950 and 30<sup>th</sup> June 1952 the current re-employment scheme remains applicable.

The new Bill also abolishes the possibility for employers to adjust salary once an employee turns 60 years old. Currently, the employer can reduce the salary once the employee turns 60.

While the new changes in respect of re-employment imposes wider obligations on the employer it also brings about new possibilities that employers should adopt and make use of.

### Parental leave

On 1<sup>st</sup> January 2017 amendments to the Child Development Co-Savings Act (Amendment No. 2; No. 33 of 2016) took effect.

#### Paternity leave

One of the key changes opens up the possibility for fathers of newborns to take a two weeks paternity leave. Employers are obliged to grant fathers paternity leave if the father is legally married to the mother at time of conception, becomes lawfully married to the mother between conception and birth or within 12 months after the child's birth and the child is Singaporean citizen. During leave the employee is entitled to payments which are capped at SGD 2,500 per week. The government will reimburse the employer in respect of the paternity leave payment.

#### Maternity leave

Another change the amendment of the Child Development Co-Savings Act entails is the 16 weeks maternity leave, which is now independent from the mother's marital status. Up until the amendment maternity leave would only be granted if the mother was legally married to the child's father. The changes hence offer single mothers the same entitlement as legally married mothers. To be eligible for maternity leave regardless of the marital status the child must be born on or after 1<sup>st</sup> January 2017.

## Shared parental leave

Further, amendments of the Child Development Co-Savings Act will introduce more flexibility to child care by offering mothers to share their maternity leave with their husbands up to four weeks. These amendments will take effect on 1<sup>st</sup> July 2017. According to the previous regulations only one week of the maternity leave could be taken by the father. During shared parental leave the father is entitled to be paid up to SGD 2,500 per week. The amount will be reimbursed to the employer by the Government.

## Adoption leave

Also the rights of adoptive parents who adopt an infant on or after the 1<sup>st</sup> July 2017 will be extended. Mothers of newly adopted children are now entitled to a 12 weeks adoption leave. Up until the Act took effect mothers of adopted children were merely entitled to 4 weeks adoption leave paid by the employer. The employer could then be reimbursed by the Government. To fulfill the criteria of eligibility the adoptive mother must be married and either the adoptive mother, father or the child must be Singaporean citizen. The employed mother is to be paid by the employer for the first four weeks of leave capped at SGD 10,000, for all subsequent eight weeks she will be paid by the Government. The employer can no longer claim reimbursement for the first four weeks for the first two children adopted.

## Increase of qualifying salary for foreign workers – Employment Pass

In order to be eligible for an Employment Pass, the applicant must among other criteria meet the minimum salary threshold of SGD 3,600 starting from 1<sup>st</sup> January 2017. The qualifying monthly salary was raised from SGD 3,300 to SGD 3,600.

However, the new threshold only applies to new applicants filing for an Employment Pass after 1<sup>st</sup> January 2017. Holders of existing Employment Passes can still renew them for up to one year based on the former criteria if they file the application between 1<sup>st</sup> January 2017 and 30<sup>th</sup> June 2017. From 1<sup>st</sup> July 2017 onwards all Employment Pass holders are expected to comply with the new criteria.

## Retrenchment notification

On 1<sup>st</sup> January 2017 an amendment of the Workforce Singapore Agency Act comes into force which imposes on employers employing more than ten employees the obligation to notify the Ministry of Manpower of any retrenchments concerning more than five employees within any time period of six months. The notification must take place within five working days. The idea behind it is to enable the Workforce Singapore and the Taskforce for Responsible Retrenchment and Employment Facilitation to support retrenched employees in finding alternative employment and improving their employability.

Employers ignoring this obligation will face fines up to SGD 5,000.

## Itemised pay slips

We have already elaborated on the obligation of employers to issue itemised pay slips to their employees in our employment law update April 2016. Therefore, we will refer to our Singapore News – *Landmark changes to the Employment Act in Singapore* of April 2016. Worth mentioning however, is the fact that the one year grace period will come to an end at the end of March 2017. Employers then must comply with this obligation. Offences will be subject to penalties.

## Employment Claims Tribunals

Starting from 1<sup>st</sup> April 2017 the Employment Claims Tribunal will commence its work. It is a milestone in terms of dispute resolution because it introduces a new possibility for both employers and employees regardless of salary level to solve employment disputes.

The jurisdiction of the Employment Claims Tribunal covers all salary-related claims under the Employment Act, Retirement and Re-employment Act and Child Development Co-Savings Act and also contractual salary-related claims. Another important aspect is that although professionals, managers and executives earning more than SGD 4,500 are not covered by the Employment Act, they can be heard by the Employment Claims Tribunal. Again, the Tribunal offers to these individuals an additional, more affordable possibility to resolve employment disputes. Under the current regime, these individuals can only contend potential employment contract infringements before the civil courts.

Before parties can seek a decision of the Tribunal, they are obliged to consult the Tripartite Alliance for Dispute Management for prior mediation. Only disputes remaining unsolved afterwards can be referred to the Tribunal for a decision.

The Tripartite Mediation Framework has also been amended with effect from 1<sup>st</sup> April 2017 extending the possibility of mediation in employment matters to more employees. So far, professionals, managers and executives were only covered if (i.) their monthly basic salary did not exceed SGD 4,500 and (ii.) who are general union members (i.e. they are member of a union and there is no collective agreement between the union and the employer). This salary cap will however be removed from April 2017. Also, mediation under this regime will include rank-and-file union members in non-unionised companies. Subject to mediation can be all employment statutory benefits and re-employment issues.



Pascal Brinkmann, LL.M. (Stellenbosch)

Lawyer

Luther LLP

Singapore

Phone +65 6408 8024

[pascal.brinkmann@luther-lawfirm.com](mailto:pascal.brinkmann@luther-lawfirm.com)

## What do employers need to do?

Taking into account that dispute management possibilities will be facilitated and enhanced for employees in 2017, it can be expected that employment arguments will be more likely carried out before a dispute resolution institution than they are under the current regime. In other words, employers should be prepared for more employment disputes arising.

The most cost-efficient and time-saving way of dispute resolution is to avoid disputes in the first place by ensuring compliance to the legal changes. Employers should therefore review their existing employment contracts and policies and update them where necessary in order to reflect the latest changes.

For further guidance, information and assistance please feel free to contact us any time.

Luther LLP

#### Imprint

Luther Rechtsanwaltsgesellschaft mbH, Anna-Schneider-Steig 22,  
50678 Cologne, Phone +49 221 9937 0, Fax +49 221 9937 110,  
[contact@luther-lawfirm.com](mailto:contact@luther-lawfirm.com)

*Editor:* Pascal Brinkmann, Lawyer, Luther LLP, 4 Battery Road, Bank of China  
Building, #25-01, 049908 Singapore, Phone +65 6408 8024, Fax +65 6408 8001,  
[pascal.brinkmann@luther-lawfirm.com](mailto:pascal.brinkmann@luther-lawfirm.com)

*Copyright:* These texts are protected by copyright. You may make use of the  
information contained herein with our written consent, if you do so accurately and  
cite us as the source. Please contact the team for further information. All contact  
details can be found on our website [www.luther-lawfirm.com](http://www.luther-lawfirm.com).

#### Disclaimer

Although every effort has been made to offer current and correct information,  
this publication has been prepared to provide information on recent regulatory  
and legal developments in Singapore only. It is not exhaustive and thus does not  
cover all topics with which it deals. It will not be updated and cannot substitute  
individual legal and/or tax advice. This publication is distributed with the  
understanding that Luther, the editors and authors cannot be held responsible for  
the results of any actions taken on the basis of information contained herein or  
omitted, nor for any errors or omissions in this regard.

If you do not want to receive this newsletter in future, please send an e-mail to  
[contact@luther-lawfirm.com](mailto:contact@luther-lawfirm.com).

Luther Rechtsanwaltsgesellschaft mbH advises in all areas of business law. Our clients include medium-sized companies and large corporations, as well as the public sector.

With "Luther Corporate Services", we assist our clients in Asian core markets with all administrative tasks regarding their current business.

Berlin, Brussels, Cologne, Dusseldorf, Essen, Frankfurt a. M., Hamburg, Hanover, Leipzig,  
London, Luxembourg, Munich, Shanghai, Singapore, Stuttgart, Yangon

Luther Corporate Services: Delhi-Gurgaon, Kuala Lumpur, Shanghai, Singapore, Yangon

Your local contacts can be found on our websites [www.luther-lawfirm.com](http://www.luther-lawfirm.com) and [www.luther-services.com](http://www.luther-services.com).



Hits the mark. Luther.

