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Singapore tightens rules for work permits

Singapore News

Singapore remains one of the most attractive business locations in Asia. This prosperous city-state attracts a large number of international companies and correspondingly numerous expatriates who work on an work permit basis.

Singapore has furthermore increasingly strived to establish itself as an international center for research and development within South East Asia. The educational level of the local population has increased commensurately. Despite this generally positive development, the Singaporean government has been increasingly prompted to intervene in this process.

Already back in 2007, the Singaporean government adopted a program to promote the local workforce. This was mainly intended to secure jobs for local professionals, managers and executives (“PME”). The new provisions announced by the Ministry of Manpower (“MOM”) on the 8th of July 2015 fits seamlessly into their existing action plan. Employers have been accorded a particularly important role by the Government. Through a combination of incentives and stricter regulations, of which the majority come into force on the 1st of October 2015, employers will be encouraged to align their recruitment policies to the objectives of the government, i.e. placing a stronger focus on the local workforce.

The key regulations which will affect most employers in Singapore are:

- a. Employers shall in future be required to specify a salary range for the vacancies which were published in the national job exchange “Jobs Bank” as part of the Fair Consideration frameworks (“FCF”);
- b. The MOM shall check Employment Pass (“EP”) requests more stringently from employers who, compared to other organizations in the same field, employ fewer Singaporean PMEs;
- c. More stringent assessment of foreign PMEs who are seeking EPs;
- d. Employers who hire older Singaporean jobseekers for certain mid-level positions are eligible to apply for wage subsidies; and
- e. An Employment Claims Tribunal (“ECT”) is expected to be established in the first quarter of 2016.

1. Publication of a salary range

The FCF vacancy requirement¹ shall be supplemented by an additional component. From the 1st of October, employers shall be required to indicate a salary range for all open positions listed on the governmental Jobs Bank. EP applications for which the previous vacancy notice did not include a salary range shall in future be rejected.

2. Stricter scrutiny of EP applications

This measure shall affect employers who, in comparison to organizations in the same field, employ fewer Singaporeans. EP applications by such employers shall in future be stricter scrutinized by the MOM. In the course of such a review the MOM may require additional information regarding the application process. For documentation purposes pertaining to the selection process, employers should therefore ensure that:

- The number of applications by Singaporeans is documented as being in response to the job posting;
- Singaporean applicants were when possible demonstrably invited to an interview, and the reasons for their rejection are documented; and
- A breakdown of Singaporeans currently in PME position throughout various levels of the company exists.

This list is by no means exhaustive. As such it is advisable that employers in future clearly document their application process, thereby enabling them to promptly provide the MOM with any requested information.

The MOM has in individual cases already begun requesting the above mentioned information. The MOM has furthermore been repeatedly requesting a detailed action plan from employers, documenting the measures taken which are aimed at increasing the recruitment of Singaporean employees, thereby reducing their dependency on foreign workers.

¹ The vacancy notice requirement was introduced in 2014. It currently only applies to EP applications. An invitation to tender is not required if the hiring company for example employs fewer than 25 employees, or the employee earns a salary of at least SGD 12,000 a month. However even these companies are obliged to tender if the MOM concludes that the hiring practices of said company are not in conformity with the FCF and that Singaporeans are disadvantaged. It is therefore generally advantageous to follow the general guidelines and tender points, even if one of the exceptions set out above is applicable.

It is unfortunately common practice of the MoM to regularly request additional documents only retrospectively. The EP applications will then normally be rejected. It is currently not possible to provide the MoM with evidence concerning the number of Singaporean applicants, invitations sent out to such applicants, et cetera when the EP application is submitted. Hence, quite often an appeal against the initial rejection needs to be filed. Consequently, the relatively fast processing period of seven days, which the MOM strives to uphold as the time in which applications are processed, is often missed. Employers should take particular note of this when hiring PMEs, and plan time-frames accordingly.

3. Provision of wage subsidies

From the 1st of October 2015, the Workforce Development Agency shall introduce a new Career Support Program (“CSP”). This initiative is intended to create incentives for employers to hire older Singaporean PMEs. The CSP is initially expected to run for two years.

Employers who hire older PMEs who have sought mid-level positions for at least 6 months and pay these employees a minimum salary of SGD 4000 salary, shall be granted wage subsidies. The exact amount shall depend on the age of the PME and the duration of employment:

	PMEs above 50	PMEs between 40-50
Support for the first 6 months:	40 % of the monthly gross salary; max. SGD 2,800 monthly	20 % of the monthly gross salary; max. SGD 1,400 monthly.
Support for the subsequent 6 months:	20 % of the monthly gross salary; max. SGD 1,400 monthly.	10 % of the monthly gross salary; max. SGD 700 monthly.

4. Tighter controls on foreign PMEs

The MOM currently assesses EP/S-Pass² applications considering a combination of the applicant's skill, experience and salary.

In the future, however, greater emphasis shall be placed on the relevant experience of the EP and S Pass applicants.

² The S Pass is another form of work visa, however unlike the EP which is aimed at managers/specialists it is intended for workers of average skills, qualifications and salaries. In contrast to the EP the basis upon which to hire a foreign worker under an S Pass is determined by how many local workers are already employed. Depending on the industry there is a ratio of 1:4 to 1:5.

According to the MoM, this will be especially applicable for those who are applying for a work permit to perform professional services.

We believe that this shall particularly affect high-tech and IT companies who are increasingly dependent on hiring well-educated and young workers from the Middle East, India and Pakistan who quite often have not yet acquired that much working experience. The changes already appear to have been implemented by the MOM.

Ever since, the MOM bars all EP candidates who fake applications against working in Singapore for life. In the future, the MOM shall also reject EP candidates who submit dubious qualifications. What qualifies as a ‘dubious’ qualification has not yet been further elucidated.

5. Employment Claims Tribunal

Up until now, the options for workers to litigate and bindingly settle disputes with employers have been limited. In the case of disputes, workers who fall under the Employment Act (Cap. 1) (“EA”) can contact the Commissioner of Labour. However, PMEs with a monthly income of more than

SGD 4,500 (which constitutes the majority of PMEs in Singapore) do not fall under the EA. As such the only option open to those is the often very expensive route via ordinary jurisdiction.

The ECT therefore represents a further innovation. It is to be established by the first quarter of 2016, and should be open to the aforementioned PMEs. There are currently no details concerning the ECT available. As the ECT is however being introduced as an alternative to the normal courts, its fees are expected to be nominal.

The ECT should in principle thus provide managers and executives an inexpensive means to legally settle employment related disputes. It is unclear whether an upper value limit for disputes shall be introduced. Such a limit exists for example in the Small Claims Tribunal (“SCT”), which deals with disputes of a value up to SGD 10,000, or with the consent of both parties up to SGD 20,000. Should a claim exceed any predefined ceiling, the normal civil courts would however remain available to settle disputes.

For employers this ultimately means that even more care should be taken when drafting employments contracts, as the introduction of the ECT implies an increase in future litigation.

Summary

The numerous government initiatives already in place to strengthen the employment of local workers aim to preserve the employability of Singaporean SMEs and, through further educational measures, help them to strive for attractive jobs and illustrious career paths. In achieving their objectives, the government has accorded employers a particularly key role. Employers are encouraged to support the development of Singaporean SMEs and consider them for appropriate career opportunities. To ensure this the MOM has tightened the requirements for the granting work permits.

The measures presented are merely the latest of a series of government initiatives designed to strengthen the local workforce. It is therefore likely that more of such measures are currently being planned.³ As such employers must prepare for more stringent rules in respect to the employment of foreigners in future.

Considering the tightening of immigration regulations corporations would be well advised to consider whether an increased recruitment of local workers, thereby taking advantage of the existing incentives, outweighs possible obstacles such as language barriers, cultural differences or training deficits.



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³ On the 8th of July 2015, the MOM announced that from September 2015 work pass holders must earn a minimum salary of SGD 5,000 to be able to apply for a Dependent pass for any accompanying spouse / child. A Long Term Visit Pass for an accompanying parent can furthermore only be applied for with a minimum salary of SGD 10,000. It shall therefore also become harder to obtain visa for family members which potentially makes it difficult to find candidates willing to move to Singapore.

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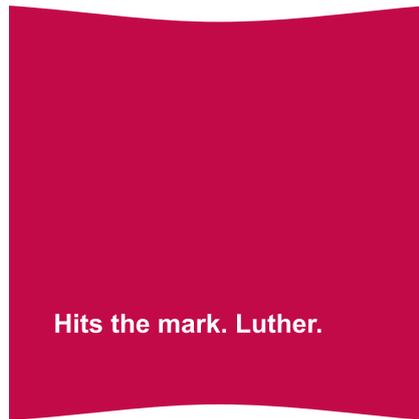
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