

December 2017

## Employment Updates

- > New Tripartite Standards
- > Changes to qualifying salary requirement for work pass holders to sponsor their dependants
- > New questions on recruitment practices in Employment Pass application

The Ministry of Manpower (“**MOM**”), the National Trades Union Congress and the Singapore National Employers Federation jointly launched:

- > the Tripartite Standard on the Employment of Term Contract Employees on 31 July 2017;
- > the Tripartite Standard on Flexible Work Arrangements on 6 October 2017;
- > the Tripartite Standard on Grievance Handling on 20 October 2017; and
- > the Tripartite Standard on Recruitment Practices on 16 November 2017 (together, the “**Tripartite Standards**”).

These are four of a series of Tripartite Standards that will be rolled out successively in the future.<sup>1</sup>

Separately, on 1 October 2017, the MOM announced that the salary criteria for work pass holders to qualify for dependant privileges will be raised from S\$5,000 to S\$6,000 (for spouses and children) and S\$10,000 to S\$12,000 (for parents) with effect from 1 January 2018.

Last but not least, the MOM also recently added several new questions on the employer’s recruitment practices in the Employment Pass (“**EP**”) online application form.

## Contents

The Tripartite Standards ....	2
Changes to dependant privileges for work pass holders.....	5
New questions on recruitment practices in Employment Pass application .....	6

<sup>1</sup> In the opening speech at the Tripartite Event on Fair and Responsive Management of Disputes for All Employees on 20 October 2017, the Minister for Manpower highlighted that the tripartite partners are in active discussion on launching more Tripartite Standards covering areas such as procurement of services (including those from freelancers), the conduct of retrenchment exercises, age-friendly workplace practices and contracting with self-employed persons.

## The Tripartite Standards

### **Background**

The Tripartite Standards represent a new tripartite initiative to increase the adoption of fair and progressive workplace practices in Singapore. Each Tripartite Standard specifies a set of verifiable and actionable employment practices in a specific area of employment which employers can publicly adopt.

The Tripartite Standards fill the gap between employment laws and Tripartite Guidelines (which all employers are required or expected to comply with) and Tripartite Advisories, which encourage employers to adopt the more progressive workplace practices set out therein.

While the adoption of the Tripartite Standards is not mandatory, employers which elect to adopt them will be able to distinguish themselves from their counterparts as employers of choice, thereby enhancing their ability to attract and retain talent. The benefits of adopting the Tripartite Standards include:

- > Public recognition on the website of the Tripartite Alliance for Fair and Progressive Employment Practices (“**TAFEP**”);
- > Ability to use the Tripartite Standards logomarks in job advertisements and marketing collaterals; and
- > Invitations to TAFEP’s workshops, seminars and conferences and access to TAFEP’s resources and advisory services.

### **The Tripartite Standard on the Employment of Term Contract Employees**

The Tripartite Standard on the Employment of Term Contract Employees sets out three practices concerning term contract employees:

- > All term contracts of service of 14 days or more which are renewed within one month from the end of the previous contract are to be treated as continuous service for the purposes of granting or accruing statutory leave benefits under the Employment Act and the Child Development Co-Savings Act. This is to avoid the resetting of term contract employees’ leave entitlement to the statutory minimum by the employer each time their contracts are renewed.
- > The above “continuous service” period(s) are also to be used for purposes of calculating the minimum notice period in instances of early termination or non-renewal of the term contract.
- > Employers are encouraged to provide training to term contract employees so that they can perform their jobs effectively.

As of 22 November 2017, 474 employers had adopted the Tripartite Standard on the Employment of Term Contract Employees.

## ***The Tripartite Standard on Flexible Work Arrangements***

The purpose of the Tripartite Standard on Flexible Work Arrangements is to recognise the benefits of flexible work arrangements (“FWAs”) to both employers and employees. FWAs refer to variations from usual work arrangements and these include:

- > Flexi-load (e.g. part-time or job sharing);
- > Flexi-time (e.g. staggered hours and compressed work week); and
- > Flexi-place (e.g. telecommuting).

Employers who adopt this Tripartite Standard are expected to:

- > appoint a member of the senior management to champion FWAs.
- > inform their employees of the types of FWAs available, the process to request for FWAs and their expectations on the responsible use of FWAs.
- > communicate the outcomes of FWA applications to their employees in a timely manner and document such outcomes. If they are unable to grant a request for FWA, supervisors will then engage with the employees on the reasons and where possible, discuss suitable alternatives.
- > train their supervisors to (i) objectively evaluate employees’ applications for FWAs based on the suitability of the relevant FWA and (ii) set work expectations and manage and appraise employees on FWAs fairly based on work outcomes.

As of 22 November 2017, 285 employers had adopted the Tripartite Standard on Flexible Work Arrangements.

## ***The Tripartite Standard on Grievance Handling***

Employers who adopt this Tripartite Standard are expected to:

- > establish a grievance handling procedure for employees to raise grievances and for the employer to conduct proper investigations and respond to the affected persons.
- > communicate the grievance handling procedure to all employees clearly and document such procedure in a written form (e.g. collective agreement, company circular or memorandum).
- > state the appropriate authority in the company to hear the appeal and set a reasonable timeframe for action to be taken. The employee should be given the right to bring the unresolved grievance to the next level, or request for the assistance of the union where applicable.
- > train supervisors and appointed staff to manage employee feedback and grievances, and to work with the union if the company is unionised.

The TAFEP has also published a Grievance Handling Handbook which offers practical tips on managing grievance within the workplace and brings employers through the grievance handling process.

As of 22 November 2017, 255 employers had adopted the Tripartite Standard on Grievance Handling.

### ***The Tripartite Standard on Recruitment Practices***

This Tripartite Standard sets out the following specifications concerning the recruitment practices of an employer:

- > Job advertisements should only state selection criteria that are related to qualifications, skills, knowledge and experience required for the job. Where specific attributes (e.g. proficiency in a particular language or the need for employees of a particular gender) are needed, the reasons should be stated clearly in the job advertisements.
- > Job application forms should only ask for information that is relevant to assess an applicant's suitability for a job. Applicants should not be required to provide information on their age, date of birth, gender, race, religion, marital status and family responsibilities (including whether an applicant is pregnant or has children) and whether they have disability, unless such information is needed to assess the applicant's suitability for the job. If such data is required, the purpose should be stated clearly.
- > Employers should consistently use a set of relevant and objective selection criteria to shortlist and select candidates in job interviews. A proper record of the interview, assessment process, test (if any) and job offer should be kept for at least one year. Unsuccessful candidates should be informed of the outcome of their interview. Hiring managers and staff should also be trained to conduct fair and unbiased interviews.

As of 22 November 2017, i.e. less than a week after its launch, 206 employers had adopted the Tripartite Standard on Recruitment Practices.

### ***Commentary on the Tripartite Standards***

Singapore has traditionally been known as a reasonably employer-friendly jurisdiction. The introduction of the Tripartite Standards is part of the shifting trend to make Singapore more employee-friendly by way of soft touch measures meant to encourage employers in adopting fair employment practices. In that context, the Tripartite Standards initiative constitutes a positive step in the development of a more holistic framework for employment practices in Singapore. Employers should take note of these Tripartite Standards as they offer a golden opportunity for organisations to distinguish themselves in specific key employment and workplace practices. Government ministries and companies across sectors, both local and international, have already adopted all four Tripartite Standards: CapitaLand, China Life Insurance, Coca-Cola Singapore Beverages, Mandarin Oriental Singapore, Nanyang Polytechnic, Parkway Group and HSBC, to name just a few. As more organisations adopt these Tripartite Standards, we expect that others may soon sense pressure to justify both internally and externally why they have not done so.

## Changes to dependant privileges for work pass holders

### *Overview*

With effect from 1 January 2018:

- > EP and S Pass holders need to meet a minimum fixed monthly salary of S\$6,000 to bring their spouse and children to Singapore on a Dependant Pass (“**DP**”); and
- > EP and S Pass holders need to meet a minimum fixed monthly salary of S\$12,000 to bring their parents to Singapore on a Long Term Visit Pass (“**LTVP**”).

For completeness, the above changes will only apply to new DP or LTVP applications that are made on or after 1 January 2018. New DP or LTVP applications made before 1 January 2018 will be assessed on existing criteria.

Renewal of DPs and LTVPs that are approved or issued before 1 January 2018 will also be assessed on existing criteria as long as the main pass holder has a valid work pass with the same employer.

The above changes to the qualifying salary requirement are not applicable to EntrePass and Personalised Employment Pass holders as their dependant privileges are assessed based on separate sets of criteria.

### *Commentary*

The changes to the qualifying salary requirement help ensure that the work pass holders are able to upkeep their dependants in Singapore. The MOM has stated that it will assess the level of dependant privileges for a work pass holder based on his/her economic contributions and whether he/she can finance his/her dependants’ stay in Singapore. This is in line with MOM’s current policy of increased scrutiny on EP applications to ensure that the foreign Professionals, Managers and Executives are of suitable quality and experience.

## **New questions on recruitment practices in Employment Pass application**

### **Overview**

In an unannounced change, the MOM recently added several new questions in the EP online application form requiring employers to disclose information about their efforts to hire Singaporean candidates for the job, i.e. how many Singapore citizens, permanent residents and foreign nationals applied for the job, what recruitment channels the employer used, how far each candidate got in the hiring process (distinguishing between Singapore citizens, permanent residents and foreigners), and up to three reasons why the employer decided not to hire a local candidate from the following list:

- > lacked technical skills/expertise;
- > lacked “soft” skills such as communication or leadership;
- > lacked relevant industry or target market experience;
- > lacked good qualifications;
- > had salary expectations that the employer could not meet;
- > turned down the employer’s offer;
- > did not show up for the interview, or
- > insufficient candidates applied or showed up for the interview to fill the number of available vacancies.

### **Commentary**

Over the past two or three years, we have indeed seen an increased number of clients reaching out for assistance in the handling of EP applications and appeal process. In that context, it is key for organisations to keep written records (contemporaneous ideally) of all candidates whose profiles are reviewed and, as the case may be, interviewed and the reason(s) for them failing the interview process. Employers should also take steps to ensure that the information provided by any applicant, foreigners and Singapore citizens alike, is accurate, including making further inquiries into qualifications or references, if appropriate.

A review of the company’s hiring process, framework for staff progression, grievance handling procedures and internal diversity, equality and fair opportunities policies in the workplace ought to be undertaken, with a view to either implementing or improving current processes in line with the Tripartite Guidelines on Fair Employment Practices and other best practice standards. Importantly, these are matters in relation to which MOM may request background information and upon which appropriate sanction levels may be determined.

Feel free to reach out to any member of our team if you would like to find out more about our expertise on these matters.

Author: Laure de Panafieu

This publication is intended merely to highlight issues and not to be comprehensive, nor to provide legal advice. Should you have any questions on issues reported here or on other areas of law, please contact one of your regular contacts, or contact the editors.

© Linklaters Singapore Pte. Ltd.. All Rights reserved 2017

Linklaters Singapore Pte. Ltd. (Company Registration No. 200007472C) is a qualifying foreign law practice, incorporated with limited liability in Singapore. Linklaters Singapore Pte. Ltd. is affiliated with Linklaters LLP, a limited liability partnership registered in England and Wales with registered number OC326345. Linklaters LLP is a law firm authorised and regulated by the Solicitors Regulation Authority. The term partner in relation to Linklaters LLP is used to refer to a member of Linklaters LLP or an employee or consultant of Linklaters LLP or any of its affiliated firms or entities with equivalent standing and qualifications. A list of the names of the members of Linklaters LLP together with a list of those non-members who are designated as partners and their professional qualifications is open to inspection at its registered office, One Silk Street, London EC2Y 8HQ, England or on [www.linklaters.com](http://www.linklaters.com).

Please refer to [www.linklaters.com/regulation](http://www.linklaters.com/regulation) for important information on Linklaters LLP's regulatory position.

We currently hold your contact details, which we use to send you newsletters such as this and for other marketing and business communications.

We use your contact details for our own internal purposes only. This information is available to our offices worldwide and to those of our associated firms.

If any of your details are incorrect or have recently changed, or if you no longer wish to receive this newsletter or other marketing communications, please let us know by emailing us at [marketing.database@linklaters.com](mailto:marketing.database@linklaters.com).

## Contacts

For further information please contact:

**Laure de Panafieu**  
Head of Employment & Incentives – Asia

(+65) 6692 5791

[laure.de\\_panafieu@linklaters.com](mailto:laure.de_panafieu@linklaters.com)

**Denise Bryan**  
Managing Associate

(+65) 6692 5845

[denise.bryan@linklaters.com](mailto:denise.bryan@linklaters.com)

**Chai Yee Oh**  
Managing Associate

(+65) 6692 5772

[chaiyee.oh@linklaters.com](mailto:chaiyee.oh@linklaters.com)

**Koh Shang Ren**  
Associate

(+65) 6692 5797

[shang\\_ren.koh@linklaters.com](mailto:shang_ren.koh@linklaters.com)

**Joel Cheang**  
Associate

(+65) 6692 5877

[joel.cheang@linklaters.com](mailto:joel.cheang@linklaters.com)

**Jolene Ang**  
Associate

(+65) 6692 5863

[jolene.ang@linklaters.com](mailto:jolene.ang@linklaters.com)

Linklaters Singapore Pte. Ltd.  
One George Street #17-01  
Singapore 049145

Telephone (+65) 6692 5700

Facsimile (+65) 6692 5708

[Linklaters.com](http://Linklaters.com)