

Why Amend the EFMA?



I hear that some errant employers are bypassing MOM's rules to gain access to more foreign workers, and MOM is amending the EFMA to step up enforcement of the work pass rules.



That is good news! Singaporeans suffer when errant employers get around MOM's rules. My dad runs an honest business and tries to provide jobs to locals. But it's tough competition when other errant employers use local 'phantom' workers to gain access to more foreign workers.



I've also heard of errant employers that make their foreign workers pay for own levies, and demand money from foreign workers before hiring them or renewing their work passes. Singaporeans lose out on employment opportunities when employers fail to pay the true costs of hiring foreign workers.



What's worse is that some syndicates set up shell or partial-sham businesses to lure foreign workers to Singapore with false employment promises. After collecting huge sums from these workers, they leave them to find their own work and fend for themselves!



The EFMA changes will enable MOM to step up enforcement and level the playing field for honest employers, as well as ensure that Singaporeans remain at the core of our workforce.



What are the key amendments under the EFMA?

MOM HAS AMENDED THE EFMA IN THREE WAYS:



1

Established a new administrative penalty regime to quickly and effectively punish those who bend the rules without the need for criminal prosecution

➤ The law distinguishes criminal offences where there is direct harm to workers (such as not paying your workers their salaries) from administrative infringements (such as not paying your S Pass holders their salaries by e-payment modes).

➤ EFMA breaches that do not directly harm workers and are not criminal activities outside of MOM's rules have been classified as administrative infringements. The administrative financial penalties ensure quicker resolution of cases and are designed to remove financial incentives from bending the rules. Serious criminal offences will continue to lead to criminal prosecution.

1 Established a new administrative penalty regime to quickly and effectively punish those who bend the rules without the need for criminal prosecution (continued)

- Commissioners for Foreign Manpower have been authorised to impose administrative financial penalties of up to \$20,000 per infringement. They are also able to debar employers from hiring foreign workers.
- An independent appeal board has been set up to hear appeals from employers.

2 Included new presumption clauses and enhanced investigatory powers to step up enforcement against syndicates and errant employers

3 Created new offences and infringements with higher penalties for more effective deterrence



Offenders illegally importing and supplying foreign workers by setting up shell or partial-sham businesses



Up to \$6,000 fine and 6 months up to 2 years' jail per charge; plus, for offenders with more than 5 workers, caning



WHY: To get around the immigration laws on employing illegal immigrants, syndicates recruit foreign workers on legal work passes but after pocketing huge sums from them, they leave them to find their own work and fend for themselves. Offenders thoroughly exploit workers and undermine the work pass framework.



Foreign workers submitting forged educational certificates to qualify for work passes



Up to \$20,000 fine and/or up to 2 years jail per charge; culpable employers or agents could also be charged for abetment



WHY: Foreign workers have been known to bypass MOM's rules by submitting forged certificates to qualify for S Passes. Offenders undermine the work pass framework employment. Opportunities for Singaporeans are also affected.



Employers collecting monies from foreign workers in consideration for employment (kickbacks to employers to secure a job in Singapore)



Up to \$30,000 fine and/or up to 2 years' jail per charge



WHY: Foreign workers typically pay fees to middlemen ranging from S\$2,000 to S\$10,000 to secure a job in Singapore, including illegal cash payments to employers. This disadvantages locals in favour of foreign labour and subjects foreign workers to huge debt burdens.

3

Created new offences and infringements with higher penalties for more effective deterrence (continued)



Employers illegally recovering employment costs from foreign workers (levy, security bond, etc)



Up to \$20,000 administrative financial penalty per infringement



WHY: To lower the costs of employing foreign workers, errant employers recover employment costs meant to be borne by themselves. When employers fail to pay the true costs of hiring foreign workers, locals are disadvantaged in favour of foreign labour.



Employers inflating foreign worker quota by paying CPF to local 'phantom' workers



Up to \$20,000 administrative financial penalty per infringement



WHY: When employers gain access to more than their fair share of foreign workers, this affects employment opportunities for Singaporeans.



Employers failing to submit a request for re-assessment for work pass eligibility before reducing the salary of S- and Employment Pass holders



Up to \$10,000 administrative financial penalty per infringement



WHY: Employers need to comply with the salary thresholds for their S- and Employment Pass employees and ensure that the workers remain eligible for their work passes. This will also ensure a level playing field for Singaporeans who wish to secure similar jobs.

Employers need to ensure that foreign workers are sent the entire In-Principal Approval letter (in their native language) before they come into Singapore.

After employment is terminated and if foreign workers are waiting for settlement of statutory claims for salary arrears or work injury compensation, employers remain responsible for their upkeep.

When
will these
changes
take effect?

The EFMA changes kicked in from 9 Nov 2012.