

Why Amend
the EFMA?



I hear MOM is amending the Employment of Foreign Manpower Act. What are these changes for?



It was reported that MOM is tightening the hiring of foreign manpower. I'm sure that errant employers will try harder to get round the rules. The changes will enhance the government's ability to safeguard the integrity of the work pass framework.



I hope these changes are effective! Singaporeans ultimately suffer when errant employers get around the work pass rules. My dad runs an honest business and tries to provide jobs to locals. But it's tough when some of his competitors are hiring more than their fair share of foreign workers in order to cut costs. Some even inflate their foreign worker quota through paying CPF to "phantom" local workers.



I've heard that some employers also make their foreign workers pay for own levies, and charge them thousands of dollars in return for renewing their work permits. Our local workers lose out in employment opportunities as a result of such employers not paying the true costs of hiring foreign workers.



What's worse is that some syndicates set up shell businesses to bring in foreign workers on false promises of employment. They collect huge sums from these workers, then release them to find their own work and fend for themselves!



I trust that the EFMA changes will allow MOM to step up enforcement against irresponsible employers, errant foreign workers and syndicates more quickly and effectively! This will level the playing field for honest law-abiding employers, as well as ensure that Singaporeans remain at the core of our workforce.



What are the key amendments under the EFMA?

MOM WILL AMEND THE EFMA IN THREE WAYS:



1

Set up an administrative penalty regime to complement our prosecution efforts



To better calibrate punishment as contraventions range widely from administrative infringements to criminal offences



Three principles were used to identify administrative infringements. Infringements -

- Do not cause direct harm or abuse to workers
- Are not regarded as criminal activities outside the work pass framework
- Administrative financial penalties and administrative actions such as debarment from hiring foreign workers would be effective in deterring errant behaviour



To enforce administrative infringements more quickly and effectively. Commissioners for Foreign Manpower will be authorized to impose administrative financial penalties of up to \$20,000 and administrative actions such as debarment of employers from employing foreign workers on errant employers.

2

Include new presumption clauses and expand investigatory powers



To facilitate enforcement of increasingly complex syndicate operations

3

Include new standalone provisions for EFMA contraventions and increase penalties



For more effective deterrence and to ensure that penalties are commensurate with potential profits.

The key contraventions (and their enhanced penalties) are listed below:



Syndicates that set up shell businesses and partial-shams that illegally import and supply foreign workers



Max \$6,000 fine and min 6 months jail, up to 2 years jail; Offenders that hire more than 5 foreign workers shall also be punished with caning



WHY: To get around the immigration laws on employing illegal immigrants, syndicates recruit foreign workers on legal work passes but after pocketing exorbitant sums from them, provide neither employment nor upkeep and maintenance to them. Instead, the workers are forced to seek actual employment on their own. This exploits workers and thoroughly undermines the work pass framework.



Foreign workers that submit forged educational certificates to qualify for S Pass or Employment Pass (EP)



Max \$20,000 fine and/or 2 years jail; culpable employers or agents could also be taken to task for abetment



WHY: Foreign workers have been known to get around MOM's criteria for educational qualifications for S Pass and EP holders by submitting forged educational certificates and subsequently feigning ignorance of the forged certificates. This undermines the work pass framework and employment opportunities for Singaporeans.

3 Include new standalone provisions for EFMA contraventions and increase penalties

➤ The key contraventions (and their enhanced penalties) are listed below (continued:)



Collection of monies from foreign workers as consideration for employment, i.e. employment kickbacks



Max \$30,000 fine and/or 2 years jail



WHY: Foreign workers typically pay fees to middlemen ranging from S\$2,000 to more than S\$10,000 to secure a job in Singapore, including illegal cash payments to employers. Employers profit from collecting these payments before agreeing to provide the foreign workers with a job in Singapore. This disadvantages locals in favour of foreign labour and subjects foreign workers to huge debt burdens.



Employers that illegally recover employment costs from foreign workers, e.g. levy, security bond, etc.



Max \$20,000 administrative financial penalty



WHY: To lower the costs of employing foreign workers, errant employers recover employment costs meant to be borne by themselves (e.g. levies, medical insurance premiums, security bond, etc). As these employment costs are imposed within the rules of the work pass framework, MOM has classified the illegal recovery as an administrative infringement.



Employers that use phantom workers to inflate foreign worker quota



Max \$20,000 administrative financial penalty



WHY: Errant employers contribute CPF to locals not genuinely employed by them in order to get a higher quota for Work Permit and S Pass holders. As contributing to CPF is not a criminal activity outside the work pass framework, MOM has classified this breach as an administrative infringement.



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



Max \$10,000 administrative financial penalty



WHY: It is critical to ensure employers' compliance with the salary thresholds for S Pass and EP holders not just at the point of application for the work pass, but throughout the validity of the work pass. This will level the playing field for Singaporean workers who wish to secure similar jobs.

MOM will also explicitly require employers to ensure that the entire In-Principle Approval letter in native language is sent to foreign workers prior to their departure. After employment, MOM will explicitly require employers to provide upkeep for foreign workers awaiting settlement of statutory claims (e.g. claims under the Work Injury Compensation Act, Employment Act, etc) in Singapore.