

**SUMMARY OF RESPONSES TO KEY FEEDBACK FROM  
PUBLIC CONSULTATION ON EMPLOYMENT CLAIMS TRIBUNALS  
(25 February – 23 March 2016)**

1. In February 2016, the Ministry of Manpower (MOM) invited members of the public to provide feedback on the Employment Claims Tribunals (ECT) via the REACH Online Consultation Portal ([www.reach.gov.sg](http://www.reach.gov.sg)). The proposed ECT aims to provide an affordable and expeditious way to resolve salary-related disputes.
2. In total, we received 82 suggestions and comments from a wide range of stakeholders, including employees, employers, legal experts and non-government organisations (NGOs).
3. This paper summarises the key feedback received and MOM's responses after deliberating on the feedback with tripartite partners.

Types of employment disputes covered by the ECT

4. We received a wide range of feedback on the proposal that the ECT hears salary-related claims, similar to the current "Labour Court" under the Ministry of Manpower. Some respondents have asked for more clarity on the definition of "salary-related claims", while others suggested covering allowances, bonuses, commissions and salary in lieu of notice. We also received feedback that the ECT should not hear complex claims, such as claims of stock options, damages and claims from employees related to their personal contractual obligations (e.g. property, car or housing loans upon termination of an employee's employment contract). We have taken in these suggestions, and the specific contractual and statutory salary-related claims that employees may lodge at the ECT are listed at the First and Second Schedules of the EC Act (please see Annex), which may

be updated from time to time based on tripartite consultations. As with the existing Labour Court, employers will be allowed to lodge only claims of salary in lieu of notice.

5. Some respondents felt that the ECT should hear non-salary related disputes, such as unfair dismissal. Tripartite partners have deliberated carefully on this matter and are of the view that the ECT should start with resolving salary-related claims in an affordable and expeditious manner, before we consider expanding the ECT's scope to cover non-salary related claims in future.

6. There was also feedback that the ECT hear statutory entitlements under the Employment of Foreign Manpower Act (EFMA). We would like to clarify that statutory salary-related entitlements and protection for foreign workers are covered under the Employment Act (EA).

#### Types of employees covered by the ECT

7. There were different opinions on the types of employees covered by the ECT. Many respondents expressed support for the ECT to cover Professionals, Managers and Executives (PMEs), while others suggested that ECT also cover public servants, domestic workers, seafarers and freelancers. Having carefully considered the feedback, we will allow public servants, domestic workers and seafarers to bring their statutory salary-related claims regarding employment assistance payment and maternity benefits to the ECT, but not contractual salary-related claims. This is as per the current practice of the Labour Court. Public servants continue to have recourse through the Public Service's internal processes, and domestic workers can approach their employment agencies and MOM to resolve employment disputes. Seafarers can continue to settle their disputes, including salary-related disputes, under the Merchant Shipping (Maritime Labour Convention) Act. We will consider including domestic workers and public servants

in consultation with tripartite partners in our next review. We would also like to take this opportunity to clarify that freelancers are not employees and do not have contracts of employment. While they will not be able to bring claims to the ECT, they will continue to have recourse to the Small Claims Tribunals (SCT).

#### Time limit to file a claim

8. There was a range of views regarding the time limit to file a claim as proposed in the public consultation document, i.e. one year after the claims arose and six months where the employment relationship has ended. Some respondents felt that the time limit was reasonable, and there was a suggestion to set the time limit at two years. After considering the different opinions, we decided to maintain the proposed time limit, which is meant to encourage claimants to come forward with their claims as soon as possible. This is especially important in cases where the employment relationship has ended, making evidence harder to collate.

9. There were a few respondents who felt the ECT should hear claims which arose before the establishment of the ECT, ranging from one year before the ECT is set up to 1 Jan 2014. After careful consideration, we decided to allow claimants to lodge claims that arose before the establishment of the ECT, subject to the time limit being met. We also took in feedback that the time taken for mediation should not count towards the time limit for filing claims at the ECT.

#### Claims limit

10. We received a range of feedback on the claims limit. Some respondents supported the proposed claims limit, while others suggested higher limits ranging from \$50,000 to

\$1 million. After tripartite consultations, we will set the claims limit at \$30,000 for cases which go through mediation with union involvement, and \$20,000 for all other claims. The \$20,000 claims limit is based on the maximum claims limit for the SCT, while the higher claims limit of \$30,000 is to recognise the role of the unions. For larger claims which tend to be more complex and may not be suitable for the ECT, claimants will continue to have recourse through the Civil Courts. The claims limit can be reviewed in future based on tripartite consultations.

11. One respondent noted that at the Small Claims Tribunals (SCT), the general claim limit is \$10,000 and that the limit can only be raised to \$20,000 with both parties' consent, and suggested that the claims limit at the ECT be unconditional and not dependent on parties' consent. We have taken in the feedback. The ECT claims limit will not require the consent of both parties.

### Mediation

12. Most respondents agreed that it would be useful for claims to go through mediation before proceeding to ECT, and there was feedback that penalties should be imposed on parties who do not attend the pre-ECT mediation session. On the other hand, one respondent felt that pre-ECT mediation should not be compulsory, as matters could also be resolved quickly at the ECT. We also received feedback that it is important to have neutral mediators and that the ECT should also recognise other accredited mediation services besides the MOM-led mediation.

13. Based on our experience at the Labour Court, mediation has been an effective way of resolving salary-related claims amicably between the parties. Having deliberated on the various views received, we decided that all parties will be required to go through

mediation by MOM-approved mediators before their claims can be heard at the ECT. Where the claimant does not have a reasonable excuse for not attending mediation, his claim may be discontinued. Where the respondent does not have a reasonable excuse for not attending mediation, the ECT Tribunal Magistrate may award costs to the claimant. This is to show that parties should take the mediation process seriously.

14. Tripartite partners will set up a new centre known as the Tripartite Alliance for Dispute Management which will conduct the pre-ECT mediation and serve as the MOM-approved mediation centre for all employees, including union and non-union members.

#### Representation

15. There were suggestions for legal and non-legal representation at the mediation, including agents, family members, friends and Voluntary Welfare Organisations.

16. After carefully considering the various feedback, we decided to keep to the current practice at the Labour Court and the SCT where there is no legal representation at the ECT, so as to keep the process affordable and expeditious. Cases which are more complex and where legal representation is appropriate can be transferred to a more appropriate Court. Union members in unionised companies may be represented by their unions at mediation and ECT hearings. Union members in non-unionised companies who undergo the Tripartite Mediation Framework (TMF) can seek consent from the ECT to have their tripartite mediation advisors observe their ECT hearings. The ECT may also allow individuals with relevant skills and experience to act as assessors to help the ECT in making its decisions.

### ECT fees

17. Several respondents expressed the view that the lodgement fees should be kept affordable and take into consideration workers' income level and financial situation. We agree that fees should be kept affordable. We are currently developing the ECT fee structure, and will consider these suggestions. To ensure that the ECT will be accessible to low-wage workers, fee waivers will be granted for deserving cases in line with State Courts' current practice.

### ECT process

18. Respondents generally agreed that the ECT process should be expeditious. We will consider a suggestion for online submission of claims, which will take some time to implement as it involves developing new IT infrastructure. Taking in feedback that we should deter frivolous claims, the ECT will be given discretion to award costs against any party making such claims.

19. There were also a number of suggestions on the ECT proceedings which are being considered, including publishing the rules of the ECT, ensuring that ECT decisions are based on legal principles and giving the ECT the power to discover and compel evidence. As the ECT will be under the State Courts, the tribunal magistrates will be legally qualified and will decide each case on its merits and in accordance with the relevant legislation, case law and principles. The ECT may also summon any person to give evidence or produce relevant documents. Parties may appeal to the High Court against an ECT order on grounds of law or jurisdiction.

20. We will also consider suggestions on ensuring the availability and affordability of notes of evidence, grounds of decisions and tribunal records as we formulate the relevant subsidiary legislation.

#### Enforcement of ECT orders

21. There were suggestions related to enforcement of unpaid ECT orders, including assisting employees with enforcement proceedings, requiring employers to pay the claim amount into an escrow account pending resolution of the dispute, and ensuring that the enforcement process should be accessible and affordable. There was also feedback that there should be financial assistance for employees who are unable to recoup their owed salaries such as in cases of company insolvency.

22. As the ECT will be established under the State Courts, the process for enforcing unpaid ECT orders will be aligned with that of other State Courts tribunals. If orders are not complied with, claimants can commence debt recovery by applying to the District Courts for a Writ of Seizure and Sale (WSS). The TADM will also advise claimants on the process of enforcing ECT orders. To help local vulnerable workers who are caught in the unfortunate situation where companies may not have assets to seize or may have stopped operations, MOM will establish a Short-Term Relief Fund to assist them. This fund will be administered by the TADM.

#### Public communications

23. Several respondents suggested providing more informational guides for employers and employees on the claim process, including the types of legislation on which claims may be based and the evidence that could be put up at the ECT. We recognise the

importance of such public communications, and will work closely with the State Courts, tripartite partners and key stakeholders to do so.

#### Other feedback

24. We also received suggestions related to management of foreign workers with salary claims, which lie outside the scope of this Bill. These include extending the Temporary Job Scheme to foreign workers with salary claims, extending Special Passes to foreign workers enforcing ECT orders and enhancing the Singapore Contractors Association Ltd (SCAL)'s Foreign Construction Workers Directory Systems. We will continue to work with tripartite partners and relevant stakeholders to look into these suggestions as we review our foreign worker management policies.

#### Conclusion

25. MOM would like to thank all respondents who have taken the time and effort to provide valuable feedback on the Employment Claims Bill and who have contributed towards strengthening our policy review process for the ECT. The establishment of the ECT will be an important step forward in creating a more comprehensive and inclusive employment dispute resolution landscape. We will continue to work with tripartite partners to review and strengthen the ECT over time.

– End –



**FIRST SCHEDULE**

**SPECIFIED CONTRACTUAL DISPUTE MATTERS**

1. Allowance (however described in the contract of service)
2. Annual wage supplement
3. Bonus payment
4. Commission
5. Deduction from salary
6. Employment assistance payment
7. Incentive payment (however described in the contract of service)
8. Medical benefit
9. Overtime payment
10. Pay for extra work
11. Pay for public holiday or paid leave
12. Pay for work on public holiday
13. Pay for work on rest day
14. Payment in lieu of unconsumed leave
15. Reimbursement for expenses incurred while carrying out official duties
16. Salary
17. Salary in lieu of notice of termination
18. Termination benefit (including retrenchment benefit or retirement benefit)

## **SECOND SCHEDULE**

### **SPECIFIED STATUTORY DISPUTE MATTERS**

#### **Matters under Child Development Co-Savings Act**

1. Female employee's entitlement to paid maternity leave, and payment for working during benefit period before her confinement, under section 9(1), (1A), (1B), (1C), (1D), (1E), (1F) and (2) of the Child Development Co-Savings Act (Cap. 38A)
2. Female employee's entitlement to paid adoption leave under section 12AA(1), (2) and (4) of the Child Development Co-Savings Act
3. Employee's entitlement to paid childcare leave under section 12B(1) and (9) of the Child Development Co-Savings Act
4. Employee's entitlement to paid extended childcare leave under section 12B(1A) and (9) of the Child Development Co-Savings Act
5. Male employee's entitlement to paid shared parental leave under section 12E(1) and (2) of the Child Development Co-Savings Act
6. Male employee's entitlement to paid paternity leave under section 12H(1) and (2) of the Child Development Co-Savings Act

#### **Matters under Child Development Co-Savings (Part-Time Employees) Regulations 2008**

7. Female part-time employee's entitlement to paid maternity leave under regulation 4(1) and (2) of the Child Development Co-Savings (Part-Time Employees) Regulations 2008 (G.N. No. S 548/2008)
8. Part-time employee's entitlement to paid childcare leave under regulation 5(1), (2) and (3) of the Child Development Co-Savings (Part-Time Employees) Regulations 2008
9. Part-time employee's entitlement to paid extended childcare leave under regulation 5A(1) and (2) of the Child Development Co-Savings (Part-Time Employees) Regulations 2008
10. Female part-time employee's entitlement to paid adoption leave under regulation 7(1) and (2) of the Child Development Co-Savings (Part-Time Employees) Regulations 2008

11. Male part-time employee's entitlement to paid shared parental leave under regulation 8(1) and (2) of the Child Development Co-Savings (Part-Time Employees) Regulations 2008
12. Male employee's entitlement to paid paternity leave under regulation 9(1) and (2) of the Child Development Co-Savings (Part-Time Employees) Regulations 2008

### **Matters under Employment Act**

13. Employee's entitlement to payment under section 11(1) of the Employment Act (Cap. 91), if the employer terminates the contract of service without notice or without waiting for the expiry of that notice
14. Employer's entitlement to payment under section 11(1) of the Employment Act, if the employee terminates the contract of service without notice or without waiting for the expiry of that notice
15. Employee's entitlement to payment under section 16 of the Employment Act, if the employer breaks, or is deemed under section 13(1) of that Act to have broken, the contract of service.
16. Employer's entitlement to payment under section 16 of the Employment Act if the employee breaks, or is deemed under section 13(2) of that Act to have broken, the contract of service.
17. Employee's entitlement to payment of salary in accordance with section 21, 22 or 23 of the Employment Act
18. Employee's entitlement to recover from the employer any deduction made by the employer from the salary of the employee that is prohibited under section 26 of the Employment Act
19. Employee's entitlement to payment under section 37(2) of the Employment Act for working, at the employee's own request, for the employer on a rest day
20. Employee's entitlement to payment under section 37(3) of the Employment Act for working, at the employer's request, on a rest day

21. Employee's entitlement to payment under section 38(4) of the Employment Act for extra work carried out at the employer's request (overtime pay)
22. Entitlement of employee to whom section 40 of the Employment Act applies to payment under section 40(4) of that Act for extra work carried out at the employer's request
23. Employee's entitlement to paid annual leave under section 43(1), (2), (6) and (7) of the Employment Act
24. Entitlement, under section 57 of the Employment Act but subject to section 63 of that Act, of employee who is a workman to recover salary that has not been actually paid to the employee in legal tender
25. Entitlement, under section 65 of the Employment Act, of employee who is a workman to recover salary from a principal, contactor or subcontractor referred to in that section
26. Female employee's entitlement to paid maternity leave, and payment for working during benefit period before her confinement, under section 76(1), (1A) and (3) of the Employment Act
27. Entitlement of person nominated by female employee under section 80(4) of the Employment Act, or personal representative of female employee, to receive payment from the employer under section 79(1) or (2) of that Act, on the death of the female employee
28. Employee's entitlement to paid childcare leave under section 87A(1) and (5) of the Employment Act
29. Employee's entitlement to paid holiday (on a public holiday) under section 88(1) of the Employment Act
30. Employee's entitlement under section 88(4) of the Employment Act to be paid an extra day's salary, if required by the employer to work on a public holiday
31. Employee's entitlement to paid sick leave under section 89(1) and (2) of the Employment Act, and to have the fees of any medical examination under section 89(1) or (2) of that Act borne by the employer

### **Matters under Employment (Part-Time Employees) Regulations**

32. Part-time employee's entitlement to payment under regulation 4(1) of the Employment (Part-Time Employees) Regulations (Cap. 91, Rg 8) for working, at the employee's own request, for the employer on a rest day
33. Part-time employee's entitlement to payment under regulation 4(2) of the Employment (Part-Time Employees) Regulations for working, at the employer's request, on a rest day
34. Part-time employee's entitlement to payment under regulation 5(1) of the Employment (Part-Time Employees) Regulations for extra work (overtime pay)
35. Part-time employee's entitlement to paid holiday (on a public holiday) under regulation 6(1) of the Employment (Part-Time Employees) Regulations
36. Part-time employee's entitlement under regulation 6(2) of the Employment (Part-Time Employees) Regulations to be paid a sum at the part-time employee's basic rate of pay for one day's work, if required by the employer to work on a public holiday
37. Part-time employee's entitlement to allowance under regulation 6(4) of the Employment (Part-Time Employees) Regulations, if the part-time employee agrees to relinquish the part-time employee's entitlement to paid holidays (on public holidays)
38. Part-time employee's entitlement to paid annual leave under regulation 7(1) and (2) of the Employment (Part-Time Employees) Regulations
39. Part-time employee's entitlement to allowance under regulation 7(3) of the Employment (Part-Time Employees) Regulations, if the part-time employee agrees to relinquish the part-time employee's entitlement to paid annual leave
40. Part-time employee's entitlement to paid sick leave under regulation 8(1) and (2) of the Employment (Part-Time Employees) Regulations
41. Part-time employee's entitlement to paid childcare leave under regulation 8A(1) and (2) of the Employment (Part-Time Employees) Regulations
42. Female part-time employee's entitlement to paid maternity leave under regulation 9(1) and (2) of the Employment (Part-Time Employees) Regulations

**Matters under Retirement and Re-employment Act**

43. Employee's entitlement to employment assistance payment under section 7C(1) of the Retirement and Re-employment Act (Cap. 274A)