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EMPLOYMENT OF FOREIGN MANPOWER ACT
(CHAPTER 91A)

EMPLOYMENT OF FOREIGN MANPOWER
(WORK PASSES) (AMENDMENT NO. 2)
REGULATIONS 2013

In exercise of the powers conferred by section 29 of the Employment of Foreign Manpower Act, Mr Tan Chuan-Jin, Senior Minister of State, charged with the responsibility of the Minister for Manpower, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Employment of Foreign Manpower (Work Passes) (Amendment No. 2) Regulations 2013 and shall come into operation on 3rd September 2013.

Amendment of regulation 4

2. Regulation 4(5) of the Employment of Foreign Manpower (Work Passes) Regulations 2012 (G.N. No. S 569/2012) (referred to in these Regulations as the principal Regulations) is amended by deleting the words “, being conditions” and substituting the words “and the regulatory conditions set out in Part VII of the Fourth Schedule, being conditions and regulatory conditions”.

Amendment of regulation 5

3. Regulation 5(3) of the principal Regulations is amended by deleting the words “, being conditions” in sub-paragraph (b) and substituting the words “and the regulatory conditions set out in Part IV of the Fifth Schedule, being conditions and regulatory conditions”.

New regulation 20A

4. The principal Regulations are amended by inserting, immediately after regulation 20, the following regulation:

“Matters that can be considered by Controller in determining debarment

20A. In determining whether a person should be debarred under section 7(4)(d) of the Act from applying for or being issued with a work pass, the Controller may have regard (but is not limited) to —

- (a) whether the person has contravened any provision in the Act, the Employment Act (Cap. 91), the Employment Agencies Act (Cap. 92), the Work Injury Compensation Act (Cap. 354) or the Workplace Safety and Health Act (Cap. 354A) which in the opinion of the Controller affects the suitability of the person as an employer; and
- (b) whether the person has made reasonable efforts to provide fair employment opportunities to citizens of Singapore, including efforts to attract and consider such citizens for employment or to train them and develop their careers and potential in the workforce.”.

Amendment of First Schedule

5. The First Schedule to the principal Regulations is amended —

- (a) by deleting the word “regulation,” in paragraph 2 of Part I and paragraph 4 of Part III; and
- (b) by deleting the words “the Government” in paragraph 2 of Part I and paragraph 4 of Part III and substituting in each case the words “any competent authority”.

Amendment of Fourth Schedule

6. The Fourth Schedule to the principal Regulations is amended —

- (a) by deleting the word “regulation,” in paragraph 4 of Part I and paragraph 2 of Part III;
- (b) by deleting the words “the Government” in paragraph 4 of Part I and paragraph 2 of Part III and substituting in each case the words “any competent authority”;

(c) by deleting the words “the salary (including allowances)” in paragraph 6 of Part I and paragraph 3 of Part III and substituting in each case the words “not less than the fixed monthly salary”;

(d) by deleting paragraph 7 of Part I and substituting the following paragraph:

“7. Except where the foreign employee is on no-pay leave outside Singapore, the employer shall, regardless of whether there is actual work for the foreign employee but subject to any other written law, pay the foreign employee not less than —

(a) the amount declared as the fixed monthly salary in the work pass application submitted to the Controller in relation to the foreign employee; or

(b) if the amount of fixed monthly salary is at any time subsequently revised in accordance with paragraph 5A of Part II, the last revised amount.

Such payment must be made not later than 7 days after the end of each salary period, which shall be agreed between the employer and the employee and which in no case shall exceed one month.”;

(e) by inserting, immediately after paragraph 7 of Part I, the following paragraphs:

“7A. In paragraphs 6, 7 and 7B, “fixed monthly salary” means the sum of basic monthly salary and fixed monthly allowances.

7B. In paragraph 7, “revised amount” means the fixed monthly salary that is revised in accordance with paragraph 5A of Part II.

7C. “Basic monthly salary” means all remuneration payable monthly to a foreign employee that does not vary from month to month on any basis in respect of work done under his contract of service. However, basic monthly salary does not include —

(a) any allowances however described;

(b) any form of overtime payment, bonus, commission or annual wage supplements;

(c) any in-kind payments;

(d) any form of reimbursements, including for expenses incurred by the foreign employee in the course of his employment;

- (e) any productivity incentive payments;
- (f) any contributions payable by the employer to any pension or provident fund, including any contributions made on the foreign employee's behalf; or
- (g) any gratuity payable on the discharge, retrenchment or retirement of the foreign employee.

7D. "Fixed monthly allowances" means all allowances payable monthly to a foreign employee that do not vary from month to month on any basis. However, fixed monthly allowances shall not include any payments listed in paragraph 7C(b) to (g).";

- (f) by inserting, immediately after paragraph 20 of Part I, the following paragraphs:

"20A. The employer shall be responsible for and bear the costs of the upkeep and maintenance of the foreign employee in Singapore. This includes the provision of adequate food as well as medical treatment.

20B. The employer shall ensure that the foreign employee has acceptable accommodation in Singapore. Such accommodation must be in accordance with the requirements in any written law, directive, guideline, circular or other similar instrument issued by any competent authority.";

- (g) by inserting, immediately after paragraph 5 of Part II, the following paragraphs:

"5A.—(1) The employer shall not —

- (a) reduce the foreign employee's basic monthly salary or fixed monthly allowances to an amount less than that declared as such in the work pass application submitted to the Controller in relation to the foreign employee; or
- (b) increase the amount of fixed monthly deductions to more than that declared as such in the work pass application submitted to the Controller in relation to the foreign employee,

except with the foreign employee's prior written agreement.

(2) Before implementing such reduction or increase, as the case may be, the employer shall inform the Controller in writing of the proposed reduction or increase, as the case may be.

5B. In paragraph 5A —

“basic monthly salary” means all remuneration payable monthly to a foreign employee that does not vary from month to month on any basis in respect of work done under his contract of service. However, basic monthly salary does not include —

- (a) any allowances however described;
- (b) any form of overtime payment, bonus, commission or annual wage supplements;
- (c) any in-kind payments;
- (d) any form of reimbursements, including for expenses incurred by the foreign employee in the course of his employment;
- (e) any productivity incentive payments;
- (f) any contributions payable by the employer to any pension or provident fund, including any contributions made on the foreign employee’s behalf; or
- (g) any gratuity payable on the discharge, retrenchment or retirement of the foreign employee;

“fixed monthly allowances” means all allowances payable monthly to a foreign employee that do not vary from month to month on any basis. However, fixed monthly allowances shall not include any payments listed in paragraphs (b) to (g) of the definition of “basic monthly salary.”;

(h) by deleting paragraph 1 of Part III and substituting the following paragraphs:

“1. The employer shall be responsible for and bear the costs of the foreign employee’s upkeep (excluding the provision of food) and maintenance in Singapore. This includes the provision of medical treatment, except that and subject to paragraphs 1A and 1B, the foreign employee may be made to bear part of any medical costs in excess of the minimum mandatory coverage if —

- (a) the part of the medical costs to be paid by the foreign employee forms not more than 10% of the employee’s fixed monthly salary per month;
- (b) the period for which the foreign employee has to pay part of any medical costs must not exceed an aggregate of