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# Guide on Employment Laws





Jointly produced by:

**T**ripartite  
**A**lliance for  
**F**air & Progressive  
**E**mployment  
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**MINISTRY OF  
MANPOWER**

### **For more information**

- Website: [www.tafep.sg](http://www.tafep.sg)
- Website: [www.mom.gov.sg](http://www.mom.gov.sg)
- Phone: 6438 5122
- Email: [mom\\_lrwd@mom.gov.sg](mailto:mom_lrwd@mom.gov.sg)

This Guide is produced by the Tripartite Alliance for Fair and Progressive Employment Practices to promote the adoption of fair, responsible and progressive employment practices.

You may also download copies of this Guide from the websites of the Ministry of Manpower and the Tripartite Alliance for Fair and Progressive Employment Practices.

All information in this Guide is correct as of September 2015. The information in this Guide is written in general terms and is not a complete statement of the law. If in doubt, please refer to the Employment Act or contact the Ministry of Manpower.

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# Purpose of Guide

This guide aims to provide basic information on the Employment Act (Cap 91). The Employment Act is Singapore's main labour legislation. It sets out the basic terms and conditions of employment in Singapore, and the rights and responsibilities of employers and employees under a contract of service.

For employers who also employ foreign manpower, they would additionally need to adhere to the Employment of Foreign Manpower Act (Cap 91A) and its regulations. For more information on this, please refer to the Ministry of Manpower's website at [www.mom.gov.sg](http://www.mom.gov.sg) or contact them at 6438 5122.

Please note that this guide is not a complete statement of the law and may not cover the requirements in other legislation on a particular issue. It should also be noted that the information is written in general terms as a guide for employers and employees and may not be applicable in a specific situation. For specific advice, you should seek professional legal assistance. Whilst every effort has been made to ensure that the information provided is correct and up to date, no warranty is given that it is free from error or omission.

## 1) Who is covered under the Employment Act?

The Employment Act covers every employee (regardless of nationality) who is under a contract of service with an employer, except:

- Managers and executives who earn monthly basic salaries of more than \$4,500;
- Seafarers;
- Domestic workers; and
- Statutory board and government employees.

The Employment Act covers both local and foreign employees. It does not make any distinction between a temporary employee, contract employee, daily-rated employee or employee on tenured employment.

## 2) Which sections of the Employment Act are applicable to employees?

In general, all sections of the Employment Act are applicable to employees if they are covered under the Employment Act. However, Part IV of the Employment Act, which sets out the provisions on hours of work, rest days, annual leave, shift work and other conditions of service, only applies to workmen<sup>1</sup> with monthly basic salaries not exceeding \$4,500, and other employees who are not managers or executives with monthly basic salaries not exceeding \$2,500.

<sup>1</sup>A workman is an employee, whose work involves manual labour and who may either be skilled or unskilled. Some examples of workmen include cleaners, construction workers, labourers and drivers.

# Contract of Service

## 3) What is a contract of service?

A contract of service is any agreement, whether in writing or verbal, expressed or implied, whereby one person agrees to employ another as an employee and the other person agrees to serve the employer as an employee.

## 4) What should be included in the contract of service?

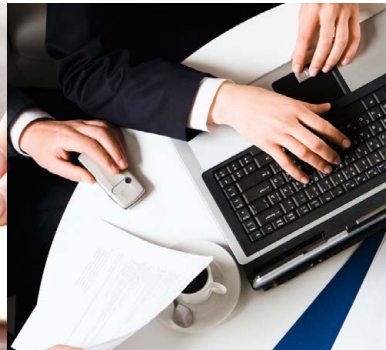
To avoid any misunderstanding, it is advised to have a written contract of service (in the form of an employment contract or appointment letter) which states the terms and conditions of employment. The contract of service should include the following:

- Title of job
- Scope of work, i.e. duties to be performed
- Start date of appointment/commencement of work
- Salary and allowances, if any
- Salary payment period
- CPF contributions
- Hours of work per day/week/shift patterns
- Rate of overtime payment
- Rest day
- Employee's benefits, e.g. annual leave, sick leave, hospitalisation leave
- Termination of employment contract and notice period

From 1st April 2016, employers will be required to issue written Key Employment Terms to their employees. You may refer to the MOM website at [www.mom.gov.sg](http://www.mom.gov.sg) for more information.

## 5) Can the terms of employment in a contract of service be less favourable than those stated in the Employment Act?

No, any employment term which is less favourable than the relevant provisions in the Employment Act is illegal, null and void. The provision in the Employment Act will take precedence over any contractual term that is less favourable.





## 6) What is the difference between contract of service and contract for service?

A contract of service is an agreement whereby one person agrees to employ another as an employee and the other agrees to serve his employer as an employee. The employer would need to contribute to the CPF of the employee and comply with relevant statutory benefits such as annual leave and sick leave.

On the other hand, a contract for service is an agreement whereby a person is engaged as an independent contractor, such as a self-employed person or vendor engaged for a fee to carry out an assignment or a project for the company. Under such arrangements, there is no employer-employee relationship, and thus that person is not covered under the Employment Act.

There is no single conclusive test to distinguish between a contract of service and a contract for service. Some of the factors to be considered in identifying a contract of service include:

### a) **Control**

- Who decides on the recruitment and dismissal of the person?
- Who pays the person's salary? What is the form of payment?
- Who determines the production process, timing and methods of production?
- Who is responsible for the provision of work?
- What is the degree of control and supervision over the person's work?

### b) **Ownership of factors of production**

- Who provides the tools and equipment?
- Who provides the working place and materials?

### c) **Economic considerations**

- Does the person carry on the business on his own account or carry on the business for the employer?
- Is the person involved in any prospect of profit or is he liable to any risk of loss?
- How is the person's earnings calculated and profits derived?
- Does the person have the right to "price" or value the work?



# Salary Matters

## 7) How often must an employee be paid?

An employee must be paid his salary at least once a month and within seven days after the end of the salary period. In addition, all payments for overtime work must be made within 14 days after the end of the salary period.

## 8) How is payment for overtime work calculated?

Overtime work must be paid at a rate of no less than 1.5 times the employees' hourly basic rate of pay. The overtime pay is to be calculated as follows:

### For workmen employed on a monthly rate of pay:

$1.5 \times \text{number of hours of overtime worked} \times (12 \times \text{monthly basic rate of pay}) / (52 \text{ weeks} \times 44 \text{ hours})$

### For non-workmen whose monthly basic rate of pay is less than \$2,250:

$1.5 \times \text{number of hours of overtime worked} \times (12 \times \text{monthly basic rate of pay}) / (52 \text{ weeks} \times 44 \text{ hours})$

### For non-workmen whose monthly basic rate of pay is \$2,250 or more:

$1.5 \times \text{number of hours of overtime worked} \times (12 \times \$2,250) / (52 \text{ weeks} \times 44 \text{ hours})$

### Example of Overtime Pay Calculation (Workmen)

Type of employee	Salary	Formula to calculate hourly basic rate	Calculation of hourly basic wage	Number of hours worked overtime	Overtime pay
Monthly rated	\$1,200 per month	$\frac{12 \times \text{Monthly basic rate of pay}}{52 \times 44}$	$\frac{12 \times \$1,200}{52 \times 44} = \$6.30$	2 Hours	$\$6.30 \times 1.5 \times 2 \text{ Hours} = \$18.90$
Daily rated	\$40 per day	$\frac{\text{Daily pay at the basic rate}}{\text{Daily hours of work}}$	$\frac{\$40}{8} = \$5$	4 Hours	$\$5 \times 1.5 \times 4 \text{ Hours} = \$30$

### Example of Overtime Pay Calculation (Non-workmen)

Type of employee	Salary	Formula to calculate hourly basic rate	Calculation of hourly basic wage	Number of hours worked overtime	Overtime pay
Monthly rated	\$1,600 per month	$\frac{12 \times \text{Monthly basic rate of pay}}{52 \times 44}$	$\frac{12 \times \$1,600}{52 \times 44} = \$8.40$	4 Hours	$\$8.40 \times 1.5 \times 4 \text{ Hours} = \$50.40$
Monthly rated	\$2,250 per month	$\frac{12 \times \text{Monthly basic rate of pay}}{52 \times 44}$	$\frac{12 \times \$2,250}{52 \times 44} = \$11.80$	2 Hours	$\$11.80 \times 1.5 \times 2 \text{ Hours} = \$35.40$
Monthly rated	\$2,400 per month	$\frac{12 \times \$2,250}{52 \times 44}$	$\frac{12 \times \$2,250}{52 \times 44} = \$11.80$	2 Hours	$\$11.80 \times 1.5 \times 2 \text{ Hours} = \$35.40$

Under Part IV of the Employment Act, it is mandatory to make overtime payment to a workman if his monthly basic salary is \$4,500 or less, or to a non-workman employee if his monthly basic salary is \$2,500 or less. The overtime rate payable to a non-workman employee is capped at the monthly basic salary level of \$2,250.

You may also refer to the online e-Calculator service provided by the Ministry of Manpower ([https://aceonline.mom.gov.sg/iaces/services/ecal/ecal\\_default.aspx](https://aceonline.mom.gov.sg/iaces/services/ecal/ecal_default.aspx)) for help in calculating overtime pay.

### **9) How should salary be paid?**

Salary should be paid on a working day and during working hours at the place of work or at any other place agreed between the employer and employee. It may also be paid into the employee's personal bank account.

### **10) When is salary payable to an employee when his contract of service is terminated?**

a) Termination of contract of service by the employer or dismissal on the grounds of misconduct:

- The employer must pay the total salary due to the employee on the last day of employment. If it is not possible, it must be paid within three working days from the date of termination/dismissal.

b) Termination of contract of service by the employee:

- If the employee has served the required notice period, the employer must pay the total salary due to the employee on the last day of employment;
- If the employee leaves employment without notice or without serving the required notice period, the employer must pay the total salary due to the employee within seven days from the last day of employment.

### **11) Is an employer allowed to make deductions from an employee's salary?**

An employer is not allowed to make any deduction other than those permitted under the Employment Act, unless required to do so (a) by order of a court or other authority competent to make such an order; (b) if the employer is declared an agent for the recovery of income tax, property tax, or goods and services tax payable by the employee; or (c) by direction of the Comptroller of Income Tax.

The following salary deductions are authorised under the Employment Act:

- For absence from work;
- For damage to or loss of goods or money entrusted to the employee, where the damage or loss is directly attributable to his negligence or default. The amount to be deducted cannot exceed 25% of one month's salary and the deduction can only be made after establishing that the loss or damage is due to the employee's negligence or default;
- For actual cost of meals supplied by the employer at the employee's request;
- For house accommodation or amenities and services supplied by the employer and which the employee has accepted. The amount deducted for house accommodation, amenities and services cannot exceed 25% of one month's salary;

- For recovery of advances, loans or adjustment of overpayments of salary. The amount deducted should not exceed 25% of one month's salary in the case of deductions for advances and loans;
- For CPF contributions;
- For contributions to superannuation scheme or provident fund or any other scheme at the request of the employee in writing. However, these schemes must be lawfully established for the benefit of the employee and approved by the Commissioner for Labour;
- For payments to any registered co-operative society with the written consent of the employee; and
- For any other purpose which may be approved upon application from time to time by the Minister for Manpower.

## 12) What is the maximum amount of deductions that an employer can make from an employee's salary?

The maximum amount of deductions in respect of any one salary period is 50% of the employee's salary but this does not include deductions made for:

- Absence from work;
- Recovery of advances, loans or adjustment of overpayments of salary; and
- Payments with the consent of the employee, to registered co-operative society in respect of subscriptions, entrance fees, instalment of loans, interest and other dues payable.

## 13) How is salary for an incomplete month of service or work calculated?

Salary payable to a monthly-rated employee for an incomplete month of work is calculated using the formula below:

$$\text{Salary payable} = \frac{\text{Monthly gross rate of pay}^2}{\text{Total number of working days in that month}^3} \times \text{Total number of days the employee actually worked in that month}^4$$

If the number of working hours in any working day is five hours or less, it shall be regarded as a half-working day. If it is more than five hours, it shall be regarded as one working day.

<sup>2</sup> Refers to the total amount of money including allowances payable to an employee for working for one month, excluding:

a) Additional payments by way of:

- Overtime payments;
- Bonus payments; or
- Annual Wage Supplements;

b) Any sum paid to the employee for reimbursement of special expenses incurred by him/her in the course of employment;

c) Productivity incentive payments; and

d) Travelling, food or housing allowances.

<sup>3</sup> Excludes rest days, non-working days but includes public holidays.

<sup>4</sup> Includes public holidays, paid hospitalisation leave or annual leave if entitled.

### Example of Salary Calculation for Incomplete Month of Work

Selvaraj worked a five-day week from Monday to Friday. His monthly basic rate of pay was \$700 and his monthly gross rate of pay was \$800. Selvaraj tendered his resignation and his last day of work was on 26 August. During the month of August, Selvaraj was on four days of paid annual leave from 11 to 14 August. Selvaraj's rest day falls on Sunday.

Mon	Tues	Wed	Thurs	Fri	Sat	Sun
31					1	2
3	4	5	6	7	8	9 National Day
10 Holiday in lieu of National Day	11 Annual Leave	12 Annual Leave	13 Annual Leave	14 Annual Leave	15	16
17	18	19	20	21	22	23
24	25	26 Last Day	27	28	29	30

#### Total number of working days in August

= 31 – 5 Saturdays – 5 Sundays  
= 21 Working days

#### Number of days worked in August

= 13 Days (shaded) + 4 Days of paid annual leave + 1 Public holiday  
= 18 Days

#### Salary for August

$$= \frac{\$800 \text{ (Monthly gross rate of pay)}}{21 \text{ (Number of working days in Aug)}} \times \frac{18 \text{ Days}}{\text{(Number of days worked in Aug)}}$$

= \$685.71

### 14) Is there a need to provide itemised payslips to employees?

From 1st April 2016, employers will be required to issue itemised payslips to their employees. You may refer to the MOM website at [www.mom.gov.sg](http://www.mom.gov.sg) for more information.

# Hours of Work



**15) How many hours can an employer require an employee to work in a day or week?**

The contractual working hours of an employee cannot exceed eight hours in a day or 44 hours in a week (a week is defined as a continuous period of seven days commencing on Monday and ending on Sunday). These hours of work do not include break time for tea/meals or rest. All work performed in excess of the contractual working hours shall be considered as overtime work.

**16) Is there a limit to the number of hours that an employee can work in a day?**

Yes, an employee is generally not allowed to work more than 12 hours in a day.

**17) Is there a limit to the number of overtime hours that an employee can work in a month?**

Yes, an employee shall not be permitted to work overtime for more than 72 hours a month, unless granted an exemption by the Commissioner for Labour through the Ministry of Manpower. More information on this can be found on the MOM website, [www.mom.gov.sg](http://www.mom.gov.sg).

# Rest Days



## **18) How many rest days is an employee entitled to in a week?**

An employee is entitled to one rest day each week without pay. The rest day can be Sunday or any other day of the week. For an employee engaged in shift work, the rest day can be a continuous period of 30 hours if it is not possible to grant them one whole day off as a rest day.

## **19) Can an employer request an employee to work on his rest days?**

Yes, an employer can request but cannot force an employee to work on a rest day unless under exceptional circumstances. An employer must also seek his employee's agreement. If an employee works on a rest day at the employer's request, the employer is required to pay him two days' salary if he works for more than half of the daily contractual hours of work (please refer to question 20 for more details). The total working hours should also be within approved limits (please refer to questions 16 and 17).

**20) What is the payment due to an employee for work done on rest days?**

The amount payable depends on the work duration and whether the request to work originated from the employer or the employee.

	Duration of Work		
	Not more than half of daily contractual hours of work	More than half, but not exceeding daily contractual hours of work	More than daily contractual hours of work
<b>Employee works on rest day at his own request</b>	Half day's basic salary	One day's basic salary	a) One day's basic salary, and b) Overtime pay* of at least 1.5 times hourly basic rate of pay x number of hours beyond the contractual hours of work
<b>Employee works on rest day at employer's request</b>	One day's basic salary	Two days' basic salary	a) Two days' basic salary, and b) Overtime pay* of at least 1.5 times hourly basic rate of pay x number of hours beyond the contractual hours of work

\*The overtime rate payable to non-workmen employees is capped at the monthly basic salary level of \$2,250.





### Example of Payment for Work Done on Rest Days:

John is paid a monthly basic salary of \$1,000. He is required to work 5.5 days a week for eight hours daily from Monday to Friday and four hours on Saturdays. He was asked by his employer to work for 10 hours on a Sunday which was his rest day. John's pay for work done on that Sunday is computed as follows:

- a) For the first eight normal working hours, John should be paid two days' salary at the basic rate:

$$\frac{12 \times \text{Monthly basic rate of pay}}{52 \times \text{Average number of days an employee is required to work in a week}} \times 2 = \frac{12 \times \$1,000}{52 \times 5.5} \times 2$$
$$= \$83.92$$

- b) For the additional two hours of overtime work, John should be paid 1.5 times of two hours' salary at the basic rate:

$$\frac{12 \times \text{Monthly basic rate of pay}}{52 \times 44} \times 1.5 \times 2 = \frac{12 \times \$1,000}{52 \times 44} \times 1.5 \times 2$$
$$= \$15.73$$

Therefore, John should be paid a total of \$99.65 (\$83.92 + \$15.73) for working 10 hours on his rest day.



# Public Holidays

## 21) Is an employee entitled to paid public holidays?

Yes, an employee is entitled to 11 paid public holidays a year under the Employment Act. If an employee is required to work on a public holiday<sup>5</sup>, the employer should pay the employee an extra day's salary or grant off in lieu.

The 11 gazetted public holidays are: New Year's Day, Chinese New Year (two days), Hari Raya Puasa, Hari Raya Haji, Good Friday, Labour Day, Vesak Day, National Day, Deepavali and Christmas Day.

## 22) Can an employee be required to work on a public holiday?

Yes, an employee may be required by the employer to work on any public holiday. In such an event, the employee should be paid an extra day's salary at the basic rate of pay for working on the public holiday in addition to the gross rate of pay for that holiday.

For a monthly-rated employee, the gross daily rate of pay for the holiday is already included in the employee's monthly gross salary. Hence the employer only needs to pay the employee an additional day's pay at the basic rate of pay.

An employer may also grant time off in lieu to an employee in a managerial or executive position who is required to work on a public holiday, comprising such number of hours as mutually agreed. For more information, please refer to question 25.

<sup>5</sup> If the holiday falls on a rest day, the next working day will be a paid holiday.



**23) Is an employee entitled to another day off if a public holiday falls on a rest day or non-working day?**

Yes, if the holiday falls on a rest day, the next working day shall be a paid holiday. If the holiday falls on a non-working day (or off day), the employer may decide to compensate the employee with an extra day's pay in lieu of that holiday or give the employee another day off as a holiday.

**24) What is the overtime rate for work done beyond the normal working hours on a public holiday?**

The rate of payment for overtime work beyond the normal working hours on a public holiday is at least 1.5 times the employee's hourly basic rate of pay.

**25) Can an employer grant time off in lieu to managers and executives for working on a public holiday?**

Yes. If the employee is in a managerial or executive position, the employer may grant time off in lieu for working on a public holiday. The time off should consist of a mutually agreed number of hours.

If there is no mutual agreement on the duration of time off in lieu, the employer can decide on one of the following:

- Pay an extra day's salary at the basic rate of pay for one day's work;
- For working four hours or less on a holiday, grant time off in lieu of four hours on a working day; or
- For working more than four hours on a holiday, grant a full day off on a work day.



# Annual Leave

## 26) What is an employee's annual leave entitlement?

An employee is entitled to paid annual leave if he has served the employer for at least three months. The annual leave entitlement should be agreed between the employer and employee, and preferably stated in a written employment contract. It should not be less than that prescribed in the Employment Act, which is as follows:

Years of Continuous Service	Days of Leave
1st	7
2nd	8
3rd	9
4th	10
5th	11
6th	12
7th	13
8th and thereafter	14



**27) Is an employee entitled to pro-rated annual leave?**

Yes. An employee is entitled to annual leave in proportion to the number of completed months of service in that year provided that he has served at least three months. The following formula should be used to pro-rate annual leave:

$$\frac{\text{Number of months in service in the current year}}{12} \times \text{Annual leave entitlement in the current year}$$

**Example of Pro-rated Annual Leave**

Hafiz has worked for his company for eight months and 13 days. His pro-rated annual leave is calculated as follows:

$$\frac{8}{12} \times 7 = 4.67, \text{ Rounded up to 5 days}^6$$

<sup>6</sup> In calculating the pro-rated leave entitlement, any fraction of a day which is less than one-half of a day shall be disregarded, and where the fraction of the day is one-half or more, it shall be regarded as one day.



# Sick Leave

## 28) Is an employee entitled to paid sick leave?

An employee is entitled to paid sick leave if he fulfils the following:

- Worked with the employer for at least three months;
- Obtained a medical certificate from the company doctor, a company-approved doctor or government doctor. If the company doctor or company-approved doctor is not readily available (such as when the company doctor is closed or very inconveniently located), the employee may obtain the medical certificate from a government doctor\*;  
and
- Informed the employer of the sick leave within 48 hours.

The number of days of paid sick leave that an employee is entitled to depends on his service period:

Number of Months of Service Completed	Paid Outpatient Sick Leave (Working Days)	Paid Hospitalisation Leave (Working Days)**
3	5	15
4	8	30
5	11	45
6 and above	14	60

\* Visit [www.mom.gov.sg](http://www.mom.gov.sg) for the list of approved public medical institutions.

\*\* Includes any outpatient sick leave if taken.



**29) Is an employer required to pay for an employee's medical expenses?**

If an employee has worked for at least three months and had consulted either the company doctor, company-approved doctor or government doctor, the employer is legally obliged to bear the medical examination fee, i.e. medical consultation fee. For other medical costs such as medication, treatment or ward charges, the employer is obliged to bear such costs depending on the medical benefits provided for in the employee's employment contract or the collective agreement signed between the company and its union.

**30) Is an employee entitled to paid sick leave during annual leave/no-pay leave/rest day/public holiday/non-working day?**

An employee will not be entitled to paid sick leave on these days as he is not required to work on these days.

**31) Are medical certificates issued by doctors in another country recognised?**

No, under the Employment Act, only medical certificates issued by the company doctors, company-approved doctors or government doctors in Singapore are recognised for the purposes of granting paid sick leave. Nevertheless, the employer may also choose to accept medical certificates issued by any other doctor, including those practising in other countries, and grant paid sick leave.

**32) Is an employee entitled to paid sick leave for cosmetic procedures?**

No, an employer is not required to grant paid sick leave nor bear the medical examination fees for an employee seeking or undergoing medical treatment for cosmetic purposes. The assessment of whether a treatment is for cosmetic purposes will be based on the opinion of the doctor performing the examination.



# Maternity and Childcare Leave

## 33) What maternity benefits is a female employee entitled to?

An employee who is covered under the Employment Act shall be entitled to 12 weeks of maternity leave. The first eight weeks of maternity leave will be paid if she fulfils the following conditions:

- a) Employed for at least three months before the date of delivery;
- b) Has less than two children at the time of delivery (unless these children were all delivered during the same pregnancy, e.g. twins or triplets); and
- c) Gave the employer at least one week's notice before going on maternity leave, and informed the employer of her delivery as soon as practicable.

Otherwise, the employee will only be entitled to half pay while on maternity leave.

Under the Child Development Co-Savings Act (Cap 38A), a legislation enacted to encourage married persons in Singapore to have more children, and which covers managers and executives, an employee shall be entitled to 16 weeks of paid maternity leave if:

- a) The child is a Singapore Citizen;
- b) The child's parents are lawfully married; and
- c) The employee has served the employer for at least three continuous months before the date of delivery.





**34) When can an employee take her maternity leave?**

An employee who is entitled to 12 weeks of maternity leave under the Employment Act may absent herself from work four weeks immediately before and eight weeks immediately after delivery. With the consent of the employer, the last four weeks can be taken flexibly over a 12-month period from the birth of the child.

An employee who is entitled to 16 weeks of paid maternity leave under the Child Development Co-Savings Act may absent herself from work four weeks immediately before and 12 weeks immediately after delivery. Where there is a mutual agreement with the employer, the last eight weeks (9th to 16th week) of maternity leave can be taken flexibly over a 12-month period from the birth of the child.

**35) Does an employer have to continue paying the salary of an employee who is on maternity leave?**

For an employee who qualifies for maternity leave under the Child Development Co-Savings Act, the employer is required to continue paying her salary throughout the entire 16 weeks of maternity leave. For the first and second confinements, the employer may later apply to the Government for reimbursement of the employee's salary for the last eight weeks of maternity leave. For the third and subsequent confinements, the employer may apply for reimbursement of the employee's salary for the entire 16 weeks of maternity leave.

For an employee who only qualifies for maternity leave under the Employment Act, the employer is required to continue paying her salary for the first eight weeks of maternity leave for the first two confinements. Payment of salary beyond the first eight weeks of maternity leave is voluntary and subject to contractual agreement between both parties.

**36) Is an employer allowed to dismiss an employee on maternity leave?**

No, it is an offence under the Employment Act.

**37) Is an employer allowed to dismiss a pregnant female employee?**

An employer will be required to pay maternity benefits to an employee if she is dismissed without sufficient cause or retrenched during any stage of her pregnancy.

A female employee is eligible for maternity benefits if:

- a) She has served the company for a continuous duration of at least three months prior to receiving the notice of dismissal or retrenchment; and
- b) She is certified pregnant by a registered medical practitioner prior to receiving the notice of dismissal or retrenchment.

### **38) Is an employee entitled to childcare leave?**

#### **Childcare Leave under the Employment Act**

Parents of non-citizen children covered under the Employment Act are entitled to two days of childcare leave per year if both of the following criteria are met:

- a) The child (including legally adopted children or stepchildren) is below seven years of age; and
- b) The employee has served the employer for at least three continuous months.

Childcare leave for each parent is capped at two days per year regardless of the number of qualifying children.

#### **Childcare Leave under the Child Development Co-Savings Act**

An employee is entitled to six days of childcare leave per year if he is covered under the Child Development Co-Savings Act. The Child Development Co-Savings Act covers all parents of Singapore Citizens, including managerial and executive staff if all three of the following conditions are met:

- a) The child is less than seven years old;
- b) The child is a Singapore Citizen; and
- c) The parent has served the employer for at least three continuous months.

The first three days of childcare leave will be paid by the employer and the last three days paid by the Government (capped at \$500 per day, including employers' CPF contributions). Regardless of the number of children, the total childcare leave entitlement for each parent is capped at six days per year.

#### **Extended Childcare Leave under the Child Development Co-Savings Act**

An employee covered under the Child Development Co-Savings Act will be eligible for two days of extended childcare leave per year if all three of the following criteria are met:

- a) The youngest child is aged seven to 12 years (inclusive);
- b) The child is a Singapore Citizen; and
- c) The parent has served the employer for at least three continuous months.

These two days of extended childcare leave will be paid for by the Government (capped at \$500 per day, including employers' CPF contributions). For parents with Singapore Citizen children in both age groups (i.e. (1) those below seven years old, and (2) those between seven and 12 years old), the total paid childcare leave for each parent is a maximum of six days per year.

# Part-time Employment

## 39) Who is a part-time employee?

Under the Employment (Part-Time Employees) Regulations, a part-time employee is an employee who works less than 35 hours a week.

## 40) Are part-time employees covered under the Employment Act?

Yes. Part-time employees (excluding managers or executives earning a basic monthly salary of more than \$4,500, domestic workers and seafarers) are covered under the Employment Act.

## 41) How are wages set for part-time employees?

Wages are set by market forces and should be determined by mutual agreement between the employees and their employers.



# Employment Benefits for Part-time Employees

## 42) Is a part-time employee entitled to paid public holidays?

Yes, a part-time employee is entitled to paid public holidays. The public holiday pay should be pro-rated based on the part-time employee's number of hours of work.

$$\frac{\text{Number of working hours per year of a part-time employee}}{\text{Number of working hours per year of a similar full-time employee}} \times \text{Number of days of public holiday of a similar full-time employee with equal length of service} \times \text{Number of working hours in a day of a similar full-time employee with equal length of service}$$

Example: Assuming a part-time employee works 22 hours every week, while a similar full-time employee's working hours are 44, the part-time employee's annual entitlement to paid public holidays is:

$$\frac{22 \text{ Hours} \times 52 \text{ Weeks}}{44 \text{ Hours} \times 52 \text{ weeks}} \times 11 \text{ Public holidays} \times 8 \text{ Hours} = 44 \text{ Hours of pay for all 11 public holidays}$$

Therefore, for every public holiday, the part-time employee should be paid:

$$\frac{44 \text{ Hours}}{11 \text{ Days}} = 4 \text{ Hours}$$

Instead of paying a part-time employee for the holidays, the employer and the part-time employee may agree to encash the public holidays and add this into the employee's hourly gross rate of pay. Any such agreement should be clearly stated in the contract of service. The formula for encashing public holidays is:

$$\frac{\text{Annual entitlement to public holidays of the part-time employee (in hours)}}{\text{Weekly working hours of that part-time employee} \times 52 \text{ weeks}} \times \text{Hourly gross rate of pay}$$

Example: Assume that the hourly gross rate of pay is \$5, the encashment of public holidays to be added to the hourly gross rate of pay will be:

$$\frac{44 \text{ Hours}}{22 \text{ Hours} \times 52 \text{ Weeks}} \times \$5 = \$0.19$$

Hence, the hourly gross rate of pay which includes the encashed public holidays is \$5.19.

#### 43) How is a part-time employee paid for work done on a public holiday?

A part-time employee should be paid the following if he is required to work on a public holiday:

- The basic rate of pay for one day's work;
- The amount he is entitled to for a public holiday; and
- One day's travelling allowance if payable under his contract of service.

#### 44) Is a part-time employee entitled to annual leave?

All employees covered by the Employment Act are entitled to annual leave. A part-time employee who has completed three months of service is entitled to paid annual leave in proportion to the yearly entitlement of a similar full-time employee, based on his working hours.

The leave entitlement is calculated as follows:

$$\frac{\text{Numbers of working hours per year of a part-time employee}}{\text{Numbers of working hours per year of a similar full-time employee}} \times \text{Numbers of days of annual leave of a similar full-time employee with equal length of service} \times \text{Numbers of working hours in a day of a similar full-time employee}$$

Example: Assume a case where:

- A part-time employee is required to work four hours a day for five days a week (20 hours a week)
- A similar full-time employee is required to work eight hours a day for 5.5 days a week (44 hours a week), and
- The leave entitlement of the full-time employee is seven days for the first year of service.

The entitlement to paid annual leave after three months of service (for the first year of service) for the part-time employee is:

$$\frac{20 \text{ Hours} \times 52 \text{ Weeks}}{44 \text{ Hours} \times 52 \text{ Weeks}} \times 7 \text{ Days} \times 8 \text{ Hours per day} = 25.5 \text{ Hours}$$

Instead of granting a part-time employee paid annual leave, the employer and the part-time employee (except for those who work at least five days a week and between 30 hours and 34 hours a week) may agree to encash the earned annual leave and add this into the employee's hourly gross rate of pay. Any such agreement should be clearly reflected in the contract of service. The formula for encashing annual leave is as follows:

$$\frac{\text{Annual entitlement to annual leave of the part-time employee (in hours)}}{\text{Weekly working hours of that part-time employee} \times 52 \text{ weeks}} \times \text{Hourly gross rate of pay}$$

Example: Assume that the hourly gross rate of pay is \$5, the encashment of leave to be added to the hourly gross rate of pay will be:

$$\frac{25.5 \text{ Hours}}{20 \text{ Hours} \times 52 \text{ Weeks}} \times \$5 = \$0.12$$

Hence, the hourly gross rate of pay which includes the encashed annual leave is \$5.12.

#### 45) Is a part-time employee entitled to paid sick leave?

All employees covered by the Employment Act are entitled to paid sick leave. A part-time employee who has completed three months of service is entitled to paid sick leave in proportion to the yearly entitlement of a similar full-time employee, based on his working hours. The sick leave entitlement is calculated as follows:

$$\frac{\text{Number of working hours per year of a part-time employee}}{\text{Number of working hours per year of a similar full-time employee}} \times \frac{\text{Number of days of sick leave of a similar full-time employee with equal length of service}}{\text{Number of working hours in a day of a similar full-time employee}}$$

Example: Assume that the part-time employee works 20 hours a week and a similar full-time employee works 44 hours a week. The part-time employee's outpatient sick leave entitlement will be calculated as follows:

$$\frac{20 \text{ Hours} \times 52 \text{ Weeks}}{44 \text{ Hours} \times 52 \text{ Weeks}} \times 14 \text{ Days} \times 8 \text{ Hours} = 50.9 \text{ Hours of outpatient sick leave per year}$$

Or, if hospitalisation is required:

$$\frac{20 \text{ Hours} \times 52 \text{ Weeks}}{44 \text{ Hours} \times 52 \text{ Weeks}} \times 60 \text{ Days} \times 8 \text{ Hours} = 218.2 \text{ Hours (this includes the 50.9 hours outpatient sick leave) of hospitalisation leave per year}$$

Sick leave cannot be encashed.

#### 46) Is a part-time employee entitled to paid maternity leave?

A part-time pregnant female employee is entitled to the same maternity benefits and protection as a full-time pregnant female employee, as long as she satisfies the qualifying conditions under the Employment Act or the Child Development Co-Savings Act. The payment will be based on the number of days that the female employee is contracted to work at her gross rate of pay.

## 47) Is a part-time employee entitled to childcare leave?

### Childcare Leave under the Child Development Co-Savings Act

The childcare leave entitlement should be adjusted for a part-time employee based on the number of working hours, so that his entitlement is equivalent to those of a full-time employee and subject to a minimum of two days.

$$\frac{\text{Average number of hours a week which a part-time employee is required to work}}{\text{Average number of hours a week which a similar full-time employee is required to work}} \times \text{Number of days of childcare leave that a similar full-time employee has, based on his duration of employment} \times \text{Number of hours a day which a similar full-time employee is required to work}$$

Example: An existing part-time employee is required to work an average of four hours a week, and a similar existing full-time employee is required to work an average of eight hours a day and 44 hours a week. The entitlement of the part-time employee to paid childcare leave is:

$$4/44 \times 6 \times 8 = 4.4 \text{ Hours (subject to minimum of two days)}$$

The part-time employee will be entitled to two days of childcare leave, equivalent to four hours each day.

### Childcare Leave under the Employment Act

Fixed-term contract/temporary/part-time/probationary employees are entitled to childcare leave, provided an employee has served the employer for a continuous period of at least three months. The part-time employees' childcare leave entitlement is calculated as follows:

$$\frac{\text{Number of hours a week which a part-time employee is required to work} \times 52}{\text{Number of hours a week which a similar full-time employee is required to work} \times 52} \times \text{Two days of childcare leave} \times \text{Number of hours a day which a similar full-time employee is required to work}$$

# Retrenchment Benefits

## 48) **In the event of retrenchment, is an employee entitled to any retrenchment benefits?**

Under the Employment Act, an employee who has been employed in a company for at least two years can request for retrenchment benefits if he is retrenched. As the law does not stipulate the quantum to be paid, the amount is subject to negotiation between the employee and employer. The quantum will also depend on the company's financial position.

An employee who has worked less than two years in a company is not entitled to claim for retrenchment benefits under the Employment Act. At its discretion, the company may choose to make ex gratia payments to employees who have worked for less than two years. Both retrenchment benefits and ex gratia payments do not attract CPF contributions.





# Termination of Contract

## 49) What needs to be done if an employer has decided to terminate the employment of an employee?

The employer is required to provide the employee with a written notification in advance. The length of the notice period is in accordance with the terms in the employment contract.

If the notice period is not stated in the employment contract, the following shall apply:

Length of Service of Employee	Notice Period
Less than 26 weeks	1 day
26 weeks to less than 2 years	1 week
2 years to less than 5 years	2 weeks
5 years and above	4 weeks

## 50) If the dismissal is without notice, that is, an “instant” dismissal, what are an employer’s obligations?

While an employer may have the right to dismiss an employee, this should not be done lightly. An inquiry to establish whether the employee has indeed been guilty of a serious offence or gross misconduct needs to be conducted (please refer to question 55). If the inquiry confirms and finds the employee guilty of a serious offence or gross misconduct, then the company may dismiss him without providing any notice. However, an employee who feels that he has been unfairly dismissed can appeal to the Minister for Manpower within one month of dismissal to be reinstated to the former job (please refer to question 58 for more details).

## 51) When is an employment contract deemed to be broken?

An employer is deemed to have broken the employment contract if he fails to pay the employee’s salary within seven days after the salary is due. An employee is deemed to have broken the employment contract if he has been continuously absent from work for more than two working days without approval or good reason, or without informing or attempting to inform the employer of the reason for the absence.

## 52) Can an employee use his annual leave to offset the notice period for termination of contract?

Yes, an employee can use his annual leave to offset the notice period for termination of contract. If an employee’s annual leave is used to offset the notice period and to bring forward the last day of work, he would only be paid until the last day of work. The annual leave used to offset the notice period will not be paid. However, if an employee

applies to go on annual leave during all or part of the notice period and approval has been granted by the employer, he will be paid his salary for the full notice period. Nevertheless, an employer cannot force an employee to consume his annual leave during the notice period if an employee does not wish to do so.

**53) Can an employer terminate an employee's contract of service while he is serving notice?**

Yes, an employer may terminate an employee's services without waiting for the notice period to expire by paying the employee a sum equal to the amount of salary which he would have earned during the required period of notice.

**54) Can an employer terminate an employee's contract of service while he is still under probation?**

Yes, an employer may terminate the services of an employee while he is still under probation. The Employment Act does not contain any provision on probation or confirmation. An employer should refer to the terms stated in the employment contract for specific details on his employee's probation and confirmation.

**55) Can an employer terminate an employee's contract of service while he is on hospitalisation leave?**

Although the Employment Act does not forbid the termination of services during hospitalisation leave, an employer should have strong reasons to justify why such an action needs to be taken while the employee is on hospitalisation leave. The employer should consider terminating the services of the employee only upon his return to work.



# Employee Misconduct

## 56) How should an inquiry into an act of misconduct be conducted?

While there is no prescribed procedure for conducting an inquiry into an act of misconduct, as a general guideline,

- a) The employee should be told of his misconduct;
- b) The person conducting the inquiry should not be in a position which may suggest bias; and
- c) The employee being investigated for misconduct should have the opportunity to present his case.

Under the Employment Act, the employer may suspend the employee from work during an inquiry, for a period not exceeding one week. The employee should not be paid less than half his salary for the suspended period. If the inquiry does not disclose any misconduct on the part of the employee, the employer must restore to the employee the full amount of salary that was withheld.

## 57) What actions can an employer take if an employee is guilty of misconduct?

An employer should first conduct an inquiry to determine if the employee is guilty of misconduct. After the inquiry, if the employee is found guilty of misconduct, the employer may:

- a) Dismiss the employee without notice;
- b) Instantly downgrade the employee; or
- c) Instantly suspend the employee from work without pay for a period not exceeding one week.

## 58) Does an employee dismissed for misconduct have any redress if he feels that the dismissal is without just cause or excuse?

If an employee considers that he has been dismissed without just cause, he may appeal to the Minister for Manpower within one month of his dismissal. The appeal must be made in writing and should state the reasons why he feels that he has been dismissed without just cause. If it can be established that an employee was unfairly dismissed, the Minister may reinstate the employee in his former employment or order a sum of money as compensation, as the Minister deems fit.

Managers and executives earning a monthly basic salary of not more than \$4,500 may seek redress against unfair dismissal by their employers by filing a written appeal for reinstatement to their former employment to the Minister for Manpower within one month of the dismissal. However, if such employees are dismissed with the necessary notice or salary in lieu of notice, they must have at least 12 months of service with the same employer before they can seek redress. They will also need to substantiate their claims of unfair dismissal.

## 59) For whom does an employer need to pay CPF?

An employer is required by law to contribute to the CPF of his employee<sup>7</sup>.

An employee is

- Any Singapore Citizen or Singapore Permanent Resident who is employed in Singapore under a contract of service by an employer excluding a master, a seaman or an apprentice in any vessel; or
- Any Singapore Citizen who is employed under a contract of service or other agreement entered into in Singapore as a master, a seaman or an apprentice in any vessel where the owners have not been exempted from the provisions of the CPF Act.

Employees include:

- a) Company Directors;
- b) Employees on concurrent employment;
- c) Family workers;
- d) NSmen on in-camp training;
- e) Part-time Employees; and
- f) Temporary/casual employees.

<sup>7</sup> CPF contributions are not payable for these cases:

- Students who work during the scheduled school holidays (CPF contributions are payable for students who work in November/ December after completing their 'A' level examinations);
- Tertiary students employed under training programmes approved by the National University of Singapore, Nanyang Technological University, Singapore Management University, Singapore Institute of Technology, Singapore University of Technology and Design, Nanyang Polytechnic, Ngee Ann Polytechnic, Republic Polytechnic, Singapore Polytechnic, Temasek Polytechnic or Institute of Technical Education; and
- Employees working overseas.



## 60) What are the responsibilities of employers under the CPF Act?

All employers must pay CPF contributions to their employees at the rates stipulated in the first schedule of the CPF Act:

- Employers are to pay CPF correctly and promptly for their employees;
- Employers are required to pay the employer's and employee's share of CPF contributions monthly for all employees (Singapore Citizens and SPRs) at the rates set out in the CPF Act;
- The contributions payable should be based on the employee's actual total wages earned for the calendar month; and
- CPF contributions are to be paid by the end of the month. Employers are given a grace period of 14 days after the end of the month to make payment of CPF contributions. If the 14th day of the grace period falls on a Saturday, Sunday or Public Holiday, CPF contributions must be paid by the next working day.



# Penalties for Non-Compliance

## 61) What are the penalties for failure to comply with the Employment Act?

Specific sections of the Employment Act may state different penalties for offences. For example, any employer who fails to pay salaries in accordance with the Employment Act and is convicted of a first-time offence shall be liable to a fine of between \$3,000 and \$15,000, and/or a maximum of six months' imprisonment. A repeat offender shall be liable on conviction to a fine of between \$6,000 and \$30,000, and/or a maximum of 12 months' imprisonment. However, if there is no penalty provided for a specific provision, then the person who fails to comply with that provision shall be fined up to \$5,000 or imprisoned up to six months or both. For a subsequent offence under the same section, offenders will be fined up to \$10,000 or imprisoned up to one year or both.

## 62) What are the penalties for failure to comply with the CPF Act?

If an employer was late in paying or did not pay CPF contributions for his employee, he may be subject to:

- Late payment interest charged at 18% per annum (1.5% per month); the minimum interest payable is \$5 per month;
- Composition amount of up to \$1,000 per offence;
- Up to \$5,000 court fine and no less than \$1,000 per offence and/or up to 6 months' imprisonment for 1st conviction; or
- Up to \$10,000 court fine and no less than \$2,000 per offence and/or up to 12 months' imprisonment for subsequent convictions.

If an employer deducted the employee's share of CPF contributions from his employee's wages and failed to submit the CPF contributions to the Board, he may be subject to:

- Up to \$10,000 court fine and/or up to seven years' imprisonment.

Please note that the above states only the basic details of the obligations of an employer.

For more details on the obligations as an employer, please refer to the CPF Board's Employers' Guide to CPF. Please email CPF Board at [employer@cpf.gov.sg](mailto:employer@cpf.gov.sg) if you require any assistance.



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