



# GMS Flash Alert

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## Singapore - Increased Penalties, Enforcement for Not Complying with Fair Employment Practices

The Singapore government has taken a stronger stance against workplace discrimination by increasing penalties across the board, and pledging to prosecute employers and key personnel who make false declarations on fair consideration. Minister for Manpower Josephine Teo announced these changes in a speech delivered on 14 January 2020.<sup>1</sup>

### WHY THIS MATTERS

Singapore-based employers could face greater challenges hiring foreign workers in light of the new anti-discrimination policies. Employers should be aware that the Ministry of Manpower (“MOM”) is more closely scrutinising employers’ hiring practices where foreign nationals as well as Singaporean nationals are concerned for purposes of hiring such individuals for employment in particular positions. Where non-compliance is identified, penalties could be applied and sanctions could impact the ability of the offending employer to hire new foreign workers for a period of time. In addition, all individuals involved in false declarations will be held responsible by the MOM.

### Background

In August 2014, Singapore implemented the Fair Consideration Framework (FCF), the country’s regulatory framework for making sure that Singaporean workers are fairly considered for job opportunities ahead of foreign talent.<sup>2</sup> Since then, the government has raised qualifying salaries for “S Pass” and “Work Permit” holders, reduced quotas for S Passes and Work Permits in the services sector, and developed a watch-list for employers who may not have met FCF

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requirements. The latest changes are in line with these measures, to further the objective of developing a strong Singaporean core workforce while maintaining Singapore's competitiveness to attract top foreign talent.

## Increased Penalties for Discrimination Cases

In Singapore, workplace discrimination includes discrimination based on nationality, age, race, religion, language, gender, marital status, or family responsibilities.

In the past, employers found guilty of discrimination were not allowed to hire new foreign workers for at least six months. Now, the foreign worker hiring bar is for a period of 12 months up to 24 months.

During the penalty period, employers will also not be allowed to renew existing work pass holders. Renewals were not barred previously.

## Repercussions for Employers That Make False Declarations

Employers and key personnel that falsely declare in Work Pass applications that they have fairly considered all candidates now face prosecution under the *Employment of Foreign Manpower Act*. If found guilty, they may be sentenced to imprisonment of up to two years, fined up to SGD 20,000, or both. The MOM will trace the line of accountability for the false declaration at the individual level and all individuals involved will be held responsible.

The MOM maintains a watch-list of suspected non-compliant companies. Examples of companies that the ministry has investigated and taken action against are:

- Employers that pre-selected a foreign national for a job position, and went through the motions of posting a job advertisement in the official jobs bank so they can file the Employment Pass application;
- Employers that omitted critical job requirements in the job advertisement so there were no suitable applicants;
- Employers that made false declarations to the ministry that they considered local candidates fairly when they did not; and
- Employers that located their HR functions overseas and claimed that they were not familiar with local laws and regulations.

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## KPMG NOTE

- Employers must actively take steps to help ensure that their recruitment and employment practices are consistently merit-based and non-discriminatory.
- When submitting work pass applications, employers must make accurate, complete, and truthful declarations regarding their hiring and selection process and the fair consideration of Singaporean applicants.
- To this end, they should also keep comprehensive HR records not only on recruitment and hiring, but on training, promotion, postings, and termination as well.
- The MOM will hold all individuals involved responsible for false declarations.

## KPMG NOTE continued

- Companies can tap a wider pool of local talent working with government agencies such as Workforce Singapore that administer the Professional Conversion Programme (PCP). The PCP is geared towards professionals, managers, executives, and technicians (“PMETs”) changing industries or careers.
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## FOOTNOTES:

1 See "[Speech at PCP for Salesforce Platform Professionals Graduation Ceremony](#)," (14 January 2020) on the website for the Ministry of Manpower. Readers may also reference Ms. Tao’s Facebook post on this matter by clicking [here](#). *(Please note Facebook is a 3<sup>rd</sup>-party website (non-KPMG, non-governmental). Provision of this link does not represent an endorsement of this website by KPMG.)*

2 For related coverage, see “Singapore: Hiring of Foreign Workers Gets Scrutiny; Better Opportunities for Singaporeans,” in GMS [Flash Alert 2015-099](#) (7 August 2015).

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