Recently released tripartite guidelines aim to help employers, employees, mediators and adjudicators understand new provisions on wrongful dismissal in Singapore’s revised Employment Act (EA), which took effect on 1 Apr 2019. Wrongful dismissal claims must be referred to the Employment Claims Tribunals instead of the Ministry of Manpower, according to the guidance, which was issued by Ministry of Manpower, the National Trades Union Congress and the Singapore National Employers Federation. And employees can ask the Tripartite Alliance for Dispute Management (TADM) to mediate wrongful dismissal claims within one month of dismissal.

The EA’s revised definition of dismissal now includes constructive dismissal, which allows employees who resign to bring a wrongful dismissal claim if the resignation probably wasn’t voluntary and resulted from the employer’s behavior or omission. Employees can apply for reinstatement or compensation.

**Wrongful Dismissals**

The guidance sets out circumstances under which dismissals — even where notice had been given — would be wrongful:

- Discrimination on grounds of age, race, gender, religion, marital status, family responsibilities or disability (for example, employers who make derogatory remarks about an employee’s race that are confirmed by other employees)

- Victimization of employees for exercising their employment rights (for example, refusal to work overtime hours or filing a mediation request with the TADM)

- Dismissal with the aim of depriving the employee of certain benefits (for example, dismissing an employee shortly after being informed of her pregnancy without providing a lawful reason for her termination, and not paying maternity benefits)

- Providing a false reason for the dismissal (for example, telling the employee that dismissal is due to redundancy but then hiring a replacement)
Employers can’t dismiss employees for poor performance without notice, and they must follow certain procedures for the dismissal to be lawful

**LAWFUL GROUNDS FOR TERMINATION**

The guidance confirms that employees can be lawfully terminated without reason, subject to being given contractual notice. The EA clarifies that dismissal for misconduct is the only legitimate reason for dismissing an employee without notice, subject to the employer following the proper procedures and proving the grounds for dismissal. Misconduct includes theft, dishonesty, or disorderly conduct at work, insubordination and actions that bring the organization into disrepute.

**RELATED RESOURCES**

- [Resource Page on Filing a Wrongful Dismissal Claim](Ministry of Manpower)
- [Resource Page on the Employment Act](Ministry of Manpower)
- [Resource Page on Mediation of Employment or Pay-Related Disputes](Tripartite Alliance for Dispute Management)

*Note: Mercer is not engaged in the practice of law, accounting or medicine. Any commentary in this article does not constitute and is not a substitute for legal, tax or medical advice. Readers of this article should consult a legal, tax or medical expert for advice on those matters.*