

QUICK GUIDE TO PREPARING COLLECTIVE AGREEMENTS (CA) FOR CERTIFICATION

Here you will find a convenient summary of the steps needed to prepare a Collective Agreement (CA). It is necessary to follow these guidelines closely as IAC may refuse to certify a CA if:

- it is not in the public interest to do so
- the CA does not set out the terms satisfactorily or adequately
- the requirements relating to duration of CA and settlement of disputes are not complied with

Requirements for CAs under IR Act

- All terms must be in writing and the CA must be signed by the union and the employer.
- The CA must be delivered to Registrar, IAC within one week of signing.
- The CA must specify a validity period: minimum: 2 years, maximum: 3 years.
- The CA must provide for the settlement of disputes, including the referral of a dispute to a referee.

Other Requirements

1. CA must comply with the following labour laws:

- (A) Industrial Relations Act
- (B) Employment Act
- (C) Child Development Co-Savings Act
- (D) Retirement and Re-Employment Act
- (E) Work Injury Compensation Act

EXAMPLES OF NON-COMPLIANCE WITH LABOUR LAWS

- Paying for work on a public holiday at “basic pay” instead of gross rate of pay
[S88 of Employment Act]
- Not allowing annual leave to be carried forward to the next year, or imposing conditions for carrying forward of leave
[Under S43(6) of Employment Act, employees are allowed to carry forward the annual leave that they have earned during 12 months of continuous service for up to 12 months after the end of that period.]
- Excluding allowances besides travelling, food and housing allowances when determining gross rate of pay for payment of annual leave, medical leave etc.
[S2(1) of Employment Act provides that all allowances should be included except for the 3 allowances specified]

- Paying for work on a rest day (at the employer's request) at double the hourly basic rate of pay
[Under S37(3) of the Employment Act, the employee should be paid:
 - If the period of work does not exceed half his normal hours of work, a sum at the basic rate of pay for one day's work.
 - If the period of work is more than half but does not exceed his normal hours of work, a sum at the basic rate of pay for 2 days' work
 - If the period of work exceeds his normal hours of work for one day -
 - A sum at the basic rate of pay for 2 days' work, and
 - A sum at the rate of not less than 1½ times his hourly basic rate of pay for each hour or part thereof that the period of work exceeds his normal hours of work for one day]
- Granting paid sick leave only to confirmed employees where the CA provides for a probationary period of more than 3 months or the probationary period may be extended beyond 3 months
[Under S89(1) and 89(2) of the Employment Act, an employee who has served an employer for at least 3 months shall be entitled to paid sick leave where certified by the medical practitioner appointed by the employer or a medical officer as defined in the Act. The Act also requires the employer to bear the cost of the medical examination.]
- Paying for sick leave at the gross rate of pay excluding shift allowance
[Under S89(5) of Employment Act, shift allowance should be excluded when the employee is on outpatient sick leave but included when he is on hospitalisation leave.]
- Requiring employees to satisfy the conditions of both the Employment Act and the Child Development Co-Savings Act to qualify for 16 weeks of paid maternity leave.
[An employee only need to satisfy conditions in the Child Development Co-Savings Act]
- Not specifying whether the maternity leave is paid or unpaid
[Under S9 of Child Development Co-Savings Act, a female employee who meets the requirements in the Act is entitled to 16 weeks of paid maternity leave at her gross rate of pay. Under S76 of Employment Act, a female employee who meets the requirements in the Act is entitled to 8 weeks of paid maternity leave at her gross rate of pay and 4 weeks of unpaid maternity leave].
- Requiring employees on reaching retirement age to meet more than the two criteria specified under the law to be eligible for re-employment like employees to have good work performance and conduct, and be certified medically fit to continue working
[S7(1)(b) of Retirement and Re-employment Act (RRA) specify that employees have to meet only 2 criteria to be eligible for re-employment viz at least satisfactory work performance and medically fit to continue working. Only these 2 criteria should be specified. Note also that the employee does not have to be certified as fit. The employee should be assumed to be medically fit unless there are reasons to suggest otherwise]
- Employment Assistance Payment (EAP) calculated based on basic rate of pay instead of gross rate of pay
[S7C(4) of RRA and Tripartite Guidelines on Re-employment of Older Employees]

Points to Note

- Generally, provisions must at least meet, and may (where parties agree) exceed requirements in labour laws*
- A provision which states that it is in line with the legislation should not be less or more favourable than the statutory provision. It should be exactly what the law provides.
- If the title of the legislation, chapter number and/or the specific section is cited, all the details must be cited correctly, e.g. 'Section 43 of the Industrial Relations Act (Chapter 136)' with respect to appointment of a referee.
- The employment benefit stated should not only meet the requirements in the law but should also be clear and consistent.

2. CA must meet the requirements for a legal document

- The names of employer and union, the date on which the CA was made, the title of the CA, and the categories of employees covered by CA must be stated clearly.
- The signature of the employer and union representatives must be at the end of the body of the CA, and the signature of at least one signatory from each party must appear on every page.
- Signing of the document should be done in the presence of witnesses, at least one nominated by each party. The witnesses should sign the CA. For the format to use, please refer to the sample CAs at (<http://www.iac.gov.sg/related-resources/sample-ca>) Amendments to the CA (if any) must be signed by at least one signatory each party.

3. CA must be complete and meet IAC's administrative requirements

The CA must be complete, i.e. there are no missing pages or appendices. Clauses, sub-clauses, paragraphs, sub-paragraphs, appendices, etc. must be numbered correctly as follows:

- Be in running order starting from the smallest number/letters
- Number/letters must not be duplicated.
- All appendices must be referred to in the body of the CA and the title of the CA as stated in the appendices must be correct.
- The title of the CA should carry the year in which the CA is signed e.g. XYZ Employees' Agreement of 20XX - if the agreement is made in 20XX

Approved Softcopy of Collective Agreement (ASCA)

- Use the ASCA of the existing CA as a basis for preparing the next CA.
- Amend as necessary.

- Send the draft to IAC 2 weeks before the intended day of signing. Print the version that IAC returns. Each page of the CA is to be printed single-sided for signature.
- The signed hardcopy of the CA is to be submitted to IAC within one week of signing the CA, together with a filing fee of \$20 (payment as advised by Registry Officer) and the completed CA questionnaire (<http://www.iac.gov.sg/related-resources/forms>).

CONCLUSION

Apart from meeting the requirements above, the employer and the union are advised to exercise due care and diligence and ensure that the CA captures clearly, comprehensively and correctly the employment terms that have been agreed between them in order to minimise the possibility of disputes arising in the future.