

29th August 2017

Dear members,

POSSIBLE ANNOUNCEMENT OF PUBLIC HOLIDAY – SEA GAMES, MALAYSIA

As you may be aware, Malaysia is currently hosting the biennial 29th Southeast Asian Games, also known as the SEA Games. The closing ceremony is scheduled on 30th August 2017.

It has emerged that there is a possibility of a public holiday announcement being made in view of Malaysia's overall victory in the SEA Games.

In the event that such public holiday is announced, this holiday will be declared under s. 8 of the Holidays Act 1951. As such, this holiday must be observed as a compulsory public holiday pursuant to s. 60D(1)(b) of the Employment Act 1955. As 31st August 2017 and 1st September 2017 are already holidays, the next working day will be the substituted holiday.

Notwithstanding this, by virtue of the second proviso to S. 60D(1A) of the Employment Act 1955, employers may grant any other day as a paid holiday in substitution for this holiday. The consent of the employee to make the substitution for this holiday to any other day is not required under law. If no substitution is made then employees are entitled to receive the holiday rate of pay for working on the particular public holiday.

As such, in the event that this particular public holiday is announced, and employers require all or some employees to work on this day, MECA's suggestion to employers would be to inform the affected employees to report for duty on the particular public holiday. The employees can be notified that the company will replace this holiday with another day.

We would also like to remind you that by virtue of s. 60D(2) of the Employment Act 1955, if the employee is absent without leave or reasonable excuse on the working day immediately preceding or immediately succeeding a public holiday, he forfeits entitlement to the holiday pay. This means that he will not be paid for the day he is absent and for the public holiday.

Should you require any clarification please do not hesitate to contact us.

Yours faithfully,
Justin Lee
Legal Adviser