

COVID-19 Updates for Singapore Employers:

Safe Distancing, Cost Reduction and Government Support

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COVID-19 RESOURCES

As of 5 April 2020, Singapore has reported more than 1,300 cases and six deaths due to the COVID-19 pandemic. While Singapore is handling the COVID-19 pandemic better than most nations, the crisis continues to intensify at an increasing rate. As such, there is the continued need to be vigilant in enforcing social distancing and isolation measures.

Even as countries all over the world begin increasing such preventative health measures, the pandemic is also devastating the global economy, including Singapore. During times of economic downturn and uncertainty, controlling fixed costs such as labour becomes even more pressing for companies. Businesses in almost every sector have been impacted by the COVID-19 pandemic, and many are looking to cut costs during this period of crisis. While every business faces unique considerations, the following guidance aims to clarify issues relating to safe distancing practices at the workplace, cost-saving and business continuity measures, and the available government support during this health and economic crisis for Singaporean businesses.

Safe Distancing Measures at the Workplace

Current Government Guidelines

On 3 April 2020, the government set out new policies on enhanced safe distancing measures, effective from 7 April 2020 to 4 May 2020, known as the Circuit Breaker Period.

All business, social or other activities that cannot be conducted through telecommuting from home will be *suspended* during this Circuit Breaker Period. Essential services and their related supply chains, as well as entities that form a part of the global supply chain, are exempted from the suspension.

Entities providing essential services must operate with the minimum staff needed on their premises to ensure the continued running of those services, and implement strict safe distancing measures. Food and beverage outlets may remain open, but can only offer takeaway and delivery services and not dining in.

Entities providing essential services are required to submit details of their plans to operate with enhanced safe distancing measures by the end of 13 April 2020.

Entities who wish to apply to be generally exempted may make an application. However, the Ministry of Trade and Industry has emphasized that only entities performing, or providing critical support for, essential services will be exempted. Alternatively, entities may instead make time-limited exemptions for periods less than a day long and for a limited number of employees.

Note that the following two sections on statutory obligations and Ministry of Manpower (MOM) advisories are subject to further changes, as these have not been updated to reflect the latest government guidelines. However, they remain instructive for the required safe distancing measures for workers of essential service businesses exempted from the suspension during the Circuit Breaker Period.

Statutory Obligations

The Infectious Diseases (Workplace Measures to Prevent Spread of COVID-19) Regulations 2020 were published on 1 April 2020 to give legal force to safe distancing measures in the workplace, as well as to provide enhanced enforcement for breaches of the government-mandated stay home notice (SHN). We set out the statutory obligations that employers are required to comply with between 2 April 2020 and 30 April 2020 (both dates inclusive) below.

Work from Home

As long as employees can perform their work by telecommuting from home, the employer must ensure that they do so. This includes providing facilities for every worker to work from their homes.

Workplace Precautions

Where working from home is not possible, such as frontline operations and fieldwork at construction sites, shipyards or plants, employers must implement safe distancing measures for their employees, including:

- (a) placing them in two or more groups to avoid physical interaction;
- (b) implementing staggered reporting times;
- (c) implementing reporting measures for employees who are exhibiting the symptoms of coughing, sneezing, breathlessness or runny noses;
- (d) ensuring a 1 meter distance between all persons, including in terms of seating arrangements and queues;
- (e) ensuring that nonemployees entering the workplace do not arrive at the same time and do not stay longer than necessary; and
- (f) cancelling all nonessential organised activities that involve in-person interactions.

Employers must not allow a worker who is subject to a movement control measure (e.g., SHN) to enter the workplace during this period.

Employers are also required to communicate the above measures to employees.

Additional Measures for Business Premises

Businesses must take the following measures:

- a) allow natural ventilation of the workplace during working hours;
- b) take the body temperature of every individual entering the workplace, in order to determine whether the individual has symptoms of fever;
- c) check whether the individual displays any flu symptoms such as coughing, sneezing, breathlessness or runny nose;
- d) record the details of every nonemployee before allowing them to enter the workplace; and
- e) refuse entry to anyone who has symptoms of fever or flu, or who refuses to have their temperature taken or details recorded.

If anyone has symptoms of fever or flu, businesses must provide a facemask to the person and require them to wear it. They must also require the person to immediately leave the workplace. If the person is unable to immediately leave the workplace, they should be isolated.

Penalties

Any person who without reasonable excuse contravenes the above is guilty of an offence. If convicted, they shall be liable to a fine not exceeding S\$10,000 or to imprisonment for a term not exceeding six months or both.

MOM Advisories

Apart from the regulations, the MOM provides updated advisories for employers from time to time. These advisories, unlike the regulations, may be applicable past 30 April 2020.

We note that the latest MOM advisory as of 26 March 2020 has restrictions that are broadly similar to those set out in the regulations. Other than these restrictions, MOM also requires employers to take additional steps such as:

- a) reducing the need for and duration of physical interactions, e.g., by using teleconferencing facilities;

- b) staggering working hours to reduce possible congregation of employees at common spaces such as entrances/exits. The staggered working hours must be implemented over at least three one-hour blocks, with not more than half of the employees reporting to work within each one-hour block. Timings of lunch and other breaks must also be staggered. Where possible, reporting and ending times should not coincide with peak-hour travel, especially if employees require the use of public transport; and
- c) limiting social gatherings at the workplace to no more than 10 persons at any one time, with safe distancing measures in place.

Penalties

MOM and the Ministry of Health (MOH) will take enforcement actions against employers who do not implement safe distancing measures, including ordering employers or occupiers to cease operations until the measures are put in place.

Temporary Cost-Cutting Measures

In March 2020, in light of the COVID-19 pandemic, the Singapore MOM, the National Trades Union Congress and the Singapore National Employment Federation updated the Tripartite Advisory on Managing Excess Manpower and Responsible Retrenchment to address the issue of excess manpower during economic downturns. The advisory discusses options available to employers on dealing with excess manpower, including some which will impact the salary of employees as well as retrenchment.

We note, however, that this advisory had been released prior to the announcement of the additional support from the Resilience Budget and Solidarity Budget (see below). As such, it remains to be seen if the MOM and the other tripartite partners will revise their view of the recommended options in light of the increased support to employers. The advisory may be updated from time to time. We also note that Finance Minister and Deputy Prime Minister of Singapore Heng Swee Keat in his statement for the Solidarity Budget on 6 April 2020 said that he expected firms to refrain from putting workers on no-pay leave or retrenching them, given the strong support given to businesses as part of the Resilience Budget and Solidarity Budget (further details of such support are set out below). As such, adopting temporary cost-cutting measures will affect the ability of businesses to obtain the full benefits from the Resilience budget and the Solidarity Budget.

Additionally, the National Wages Council, a tripartite body made up of employer, employee and government representatives that develops annual guidelines on wage and employment-related issues, convened their annual meeting on 17 March 2020, earlier than their typical meeting date in the April/May period. The feedback window for annual guideline suggestions closed on 24 March 2020, and we anticipate that the upcoming annual guidelines will have further guidance for employers on the COVID-19 pandemic.

Shorter Workweek

Employers are allowed to request their employees to stop coming to work on certain days in a week. Certain safeguards to ensure that the employees' interests are not unfairly prejudiced are also set out.

During the ongoing shorter workweek arrangement, employees are to be paid at least 50 percent of their gross salary during the days that they are not working.

In addition, employers can request their employees to take annual leave on the days that they are not coming into work, subject to the employees not being asked to take more than 50 percent of their earned annual leave. On days where employees are on annual leave they should still get a full day's pay.

In addition, the reduction in work days should not exceed three days in a week (a reduction of three days should only be implemented if the economic downturn has severely affected the company), and the shorter workweek arrangement should not last for more than three months at any one instance, subject to review.

Temporary Layoff

Employers can ask employees to stop coming to work for a short period, provided that the employers pay at least 50 percent of the employees' gross salary during the days that they are temporarily laid off.

Similar to shorter workweek arrangements, employees should not be asked to take more than half of their earned annual leave during the temporary layoff. On days where employees are on annual leave, they should still get a full day's pay.

Employers should implement the layoff period such that it does not exceed one month at any one instance, subject to review.

Shorter workweeks and temporary layoffs, while being permissible cost-cutting measures, are consensual arrangements that cannot be forced upon the employees. Employers should hold discussions with their employees and seek their consent to be placed under these work arrangements for the period during which the company is affected by the COVID-19 pandemic. If the employees are not agreeable to these cost saving measures, they are able to continue coming to work on every working day of the month and receive their full monthly salary.

Voluntary No-Pay Leave

Employers are encouraged to implement other cost-saving measures (such as shorter workweeks and temporary layoffs) prior to seeking their employees' consent to take voluntary no-pay leave.

Taking unpaid leave largely depends on what is agreed upon between the employer and the employee. Hence, if the employees agree to voluntarily take unpaid leave during the COVID-19 pandemic, the company can approve such unpaid leave. The employer can deduct the employee's salary accordingly. As a matter of prudent employment practice and in order to avoid future employment disputes, it is encouraged that the employer keep a record of all the leave applications/ correspondence, whether paid or unpaid.

Periods of approved unpaid leave are excluded from the calculation of total annual leave entitlement and employees are not eligible for paid sick leave during unpaid leave. Similar to the shorter workweek and

temporary layoff arrangements, employers cannot force their employees to take unpaid leave under Singapore law.

Mandatory Notifications on Cost-Saving Measures

All the above described measures are designed to lower salaries and hence are considered “cost-saving measures” by the MOM. The MOM has imposed a mandatory requirement that employers must notify the MOM online within one week after implementing cost-saving measures if the employer is registered in Singapore and has at least 10 employees.

Foreigners on an Employment Pass, S-Pass or Work Permit

While foreigners on an employment pass, S-pass or work permit similarly can agree to cost-saving work arrangements and have their salaries reduced, under the Employment of Foreign Manpower (Work Passes) Regulations 2012, in respect of employment pass, S-pass and work permit holders, “the employer shall pay not less than the fixed monthly salary due to the foreign employee for the month”. Accordingly, approval from the Controller of Work Passes should first be sought prior to reducing the salary for foreign employees pursuant to their participation in any cost-saving measures.

Retrenchment

For employers that have decided on retrenching employees in order to stay afloat in this tough business environment, employers have to comply with the terms of the employment contract between the employer and employee.

While there are no laws mandating the payment of retrenchment benefits for most employees, the Tripartite Alliance for Fair and Progressive Employment Practices (TAFEP) has nonmandatory guidelines concerning retrenchment. Under those guidelines, the recommendation is to pay a retrenchment benefit varying between two weeks to one month’s salary per year of service. TAFEP also recommends that employers take certain steps to assist the employees during this period, such as offering help with job searches and placing them in roles in associate organisations, wherever possible.

Retrenchment Notification Required

The only mandatory requirements for employers pursuant to carrying out a retrenchment exercise is that employers who employ at least 10 employees and who retrench at least five employees within a six-month period are required to notify the MOM. This should be done within five working days after the employees are notified about their retrenchment.

Other Forms of Cost-Saving Measures

While not publicised by the MOM, if employers intend to take other forms of cost-cutting measures, such as mandating no-paid leave for its employees, such measures may be assessed and approved by MOM on

a case-by-case basis, which will consider, among others, the nature of the industry of the applicant and the ability of the applicant to adopt other less drastic cost-saving measures.

Temporary Relief Measures from MOM

MOM has introduced temporary schemes to help companies manage the workforce disruptions caused by the COVID-19 pandemic.

Three-Month Extension of Levy Payment Timeline for SMEs

MOM will provide small and medium enterprises (SMEs) with an additional three months to make the foreign worker levy payment. SMEs will have up to five months to pay for the foreign worker levy from the month it is incurred before revocation action kicks in.

This temporary relief measure will apply to levies incurred in the year 2020. Firms who are making use of the extended timeline are encouraged to retain existing workers and should not be employing new foreign workers. MOM will hence allow renewals but not new applications of work passes from these firms.

The late payment penalty of 2 percent monthly will still apply for levies that are deferred. Firms are hence encouraged to exercise financial prudence and plan their cash flow to pay levies on time as much as possible.

Up to 90 Day Levy Waiver for Foreign Workers on Overseas Leave

Currently, MOM allows a levy waiver for up to 60 days for foreign workers who go on overseas home leave for at least seven consecutive days. In view of travel restrictions and difficulties workers may face in returning to Singapore, MOM will extend the levy waiver period to up to 90 days with immediate effect for foreign workers who are currently on overseas leave. Employers who send their foreign workers home from now until the end of 2020 will also be eligible for levy waiver, subject to the 90-day cap. Employers arranging for their workers to leave Singapore and seeking a return subsequently will be subject to the prevailing conditions then.

Employees can apply for the waiver at the Central Provident Fund website.

Please also note that under the Solidarity Budget (see below), the government has announced a waiver of the levy due in April 2020 to aid in cash flow, along with a rebate of S\$750 for each work permit or S pass holder, based on previous levies paid in 2020.

Man-Year Entitlement Refund for Construction Firms

Currently, some construction firms are unable to fully utilise the man-year entitlements (MYE) allocated for their projects due to delays in overseas supplies and entry of foreign construction workers due to travel restrictions.

MOM, in partnership with the Singapore Contractors Association Limited (SCAL) and the Building and Construction Authority (BCA), has introduced a temporary six-month scheme from 1 April 2020 to refund unused MYEs due to work disruptions from COVID-19. Firms have the flexibility to use the refunded MYE within one year to hire new workers or renew existing ones.

Affected firms can apply to the BCA for the MYE refund. The BCA will provide more details on the application process.

Temporary Scheme to Manage Manpower Needs in Manufacturing and Services Sectors

Effective from 2 March 2020, a temporary scheme has been introduced to help companies in the manufacturing and services sectors better manage their manpower needs. Companies in these sectors will be allowed to hire existing People's Republic of China (PRC) work permit holders who are in Singapore, with the agreement of their current employers.

Over the next six months, MOM will work with the Singapore Business Federation (SBF), who will help to facilitate the transfer of PRC work permit holders between companies.

Employers from the manufacturing or services sectors who are interested to hire existing PRC work permit holders, or transfer them to another employer in the same sector, can approach SBF for help. All other prevailing work permit criteria apply for new applications.

Assistance Available to Businesses from the Resilience Budget and Solidarity Budget

As part of Singapore's S\$5.1 billion Solidarity Budget announced on 6 April 2020, firms will receive more financial support amid the economic slowdown caused by the COVID-19 pandemic. This follows the S\$48 billion Resilience Budget announced on 26 March and the S\$4 billion Stabilisation and Support Package for workers and firms announced earlier this year. Please note that while the measures have been set out here, the details of how these measures will be implemented have generally not yet been announced by the relevant government bodies.

Jobs Support Scheme

The Jobs Support Scheme (JSS) was launched in the 2020 budget to help enterprises retain their local employees (Singapore citizens and permanent residents) during this period of economic uncertainty. All active employers, with the exception of government organisations (local and foreign) and representative offices, are eligible for the JSS.

Employers do not need to apply for the JSS. The grant will be computed based on Central Provident Fund (CPF) contribution data. Employers eligible for the additional tiers of support will be informed closer to the date of the first payout.

Following the Resilience Budget and Solidarity Budget, employers now receive higher, longer and additional tiers of support for severely affected sectors.

Higher Support Levels

For the month of April, employers will now receive a 75 percent cash grant on the first S\$4,600 of the gross monthly wages of each local employee on their CPF payroll.

For subsequent months, employers will receive 25 percent cash grant on the first S\$4,600 of the gross monthly wages of each local employee on their CPF payroll.

The above measures are to help employers retain their local employees. In particular, the increased April 2020 payout is intended to lessen the impact to businesses during the Circuit Breaker Period.

Note that gross monthly wages include employee CPF contributions, but exclude employer CPF contributions. In addition, wages paid to business owners will not be eligible for the grant.

Longer Support

The JSS will be extended to cover nine months of wages (up from three months) to help employers retain their local employees, and will be paid in two additional tranches:

	JSS will cover wages paid in:	CPF contributions for the relevant months must be made by:	JSS will provide support of:	JSS will be paid out by:
Tranche 1 (Enhanced)	October - December 2019	14 February 2020	75 percent of the first S\$4,600 of gross monthly wages per local employee	End of April 2020
Tranche 2 (New)	February - April 2020	14 May 2020	25 percent of the first S\$4,600 of gross monthly wages per local employee	End of July 2020
Tranche 3 (New)	May - July 2020	14 August 2020		End of October 2020

Firms on GIRO and PayNow can expect to receive their payouts for the first tranche slightly earlier than the rest of the businesses, who will receive their payouts through cheque.

Additional Tiers of Support for Severely Affected Sectors

The JSS will also provide two additional tiers of support for businesses in severely affected sectors:

	Businesses supported	JSS will provide support of:
Tier 1 – Aviation and Tourism	<ul style="list-style-type: none"> • Airlines • Airport ground handlers • Airport operators • Qualifying licensed hotels • Qualifying licensed travel agents • Qualifying gated tourist attractions • Cruise lines and cruise terminal operators • Purpose-built meetings, incentives, conferences and exhibitions venue operators 	75 percent of the first S\$4,600 of gross monthly wages per local employee (includes 25 percent base support)
Tier 2 – Food Services	Licensed food shops and food stalls (including hawker stalls)	50 percent of the first S\$4,600 of gross monthly wages per local employee (includes 25 percent base support)

For additional details on qualifying licenses, please refer to the Supplementary Budget Statement on Enhanced Jobs Support Scheme.

Please note that adopting other forms of temporary cost cutting measures that reduce the wage of the employees, such as no-pay leave, temporary lay-offs, or reduction in salaries will affect the payouts to the businesses. For more details, you can view Annex B1 of the Solidarity Budget.

Wage Credit Scheme

The Wage Credit Scheme (WCS) was enhanced in the 2020 budget. WCS supports enterprises embarking on transformation efforts and encourages employers to share productivity gains with workers by co-funding wage increases.

Enhanced WCS as announced in Budget 2020	
Qualifying years	2019, 2020
Level of co-funding	20 percent of qualifying wage increases in 2019 20 percent of qualifying wage increases in 2020
Gross monthly wage ceiling	S\$5,000
Qualifying wage increases	Increases in gross monthly wage of at least S\$50 given to Singaporean employees in the qualifying year, up to a gross monthly wage level of S\$5,000, will be co-funded. In addition, increases in gross monthly wage of at least S\$50 given in 2017, 2018 and 2019 up to a gross monthly wage level of S\$5,000, and sustained in subsequent years of the scheme, will be co-funded.

Employers do not need to apply for WCS.

- (a) Employers receive payouts automatically in the month of March after the qualifying year for qualifying wage increases given to their employees in the qualifying year. This is the existing process.
- (b) Employers who benefit from additional wage credit arising from the 2020 budget enhancements will receive a separate supplementary payout in the second half of 2020. Letters will be sent to all qualifying employers to inform them of the supplementary payout. Following the enhanced Resilience Budget, the additional payout is intended to be brought forward from September 2020 to end-June 2020.

Reduction and Waiver of Foreign Worker Levy

Under the Solidarity Budget, the monthly foreign worker levy due in April 2020 will be waived to reduce costs and relieve the pressures on cash flow during the Circuit Breaker Period.

Employers will also be provided with a foreign worker levy rebate of S\$750 for each work permit or S pass holder, based on previous levies paid in 2020. The employers can expect to receive the rebate as early as 21 April 2020.

Other Support

The Resilience Budget and Solidarity Budgets are also helping businesses by implementing policies such as the Enhanced Property Tax Rebate, Cash Flow Support and more. For more information, please refer to the corresponding Supplementary Budget Statements available on the Singapore Budget website.

Conclusion

During times of economic downturn like the current COVID-19 pandemic, employers must manage costs for the survival of their business and to hopefully preserve employee jobs. In the process of implementing cost-saving arrangements, employers need to consider both the requirements and recommendations of the MOM and organizations like the TAFEP, and be aware of the support provided by the government.

If cost-saving arrangements are not implemented responsibly, employers may face regulatory enforcement actions as well as the spectre of potential employment disputes.

Other Issues Arising from the COVID-19 Pandemic

This current pandemic has resulted in major disruptions for global businesses, affecting not just employment and human resources matters, but also causing issues involving contractual performance, supply disruptions, funding concerns, talent acquisition and development, and others.

For More Information

If you have any questions about this *Alert*, please contact Derrick Boo, Evan Teoh, any of the attorneys in our Singapore office or the attorney in the firm with whom you are in regular contact.

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