

COVID-19 Updates for Singapore Employers: Safe Distancing, Cost Reduction and Government Support

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As of 27 April 2020, Singapore has reported more than 13,000 cases and 12 deaths due to the COVID-19 pandemic. While the number of new cases in the local communities have started to level off, many of the new cases are unlinked, pointing to a larger, as-yet undetected reservoir of cases in Singapore. 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. On 21 April 2020, the government further announced that the Circuit Breaker Period would be extended till 1 June 2020, along with announcing various expansions of the current support schemes for families and businesses (21 April Announcement).

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. The government has estimated that this would result in only 15% of Singapore's workforce being allowed to commute to work.

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. Certain essential food and beverage outlets (which will exclude standalone outlets that sell only beverages, packaged snacks, confectioneries or desserts) may remain open, but can only offer takeaway and delivery services and not dining in.

Entities who wish to apply to be generally exempted from the suspension of business activities, or to declare that they provide essential services 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.

Entities providing essential services may also apply for time-limited exemptions to deploy employees to the workplace for periods less than a day long and for a limited number of employees. Each company is only limited to 4 applications throughout the Circuit Breaker period (this restriction could potentially be updated, as this limitation of 4 applications was prior to the 21 April Announcement), to be made the day before the intended deployment of workers to the workplace.

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 face mask 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 Work Week

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 work week 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 work week 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 work weeks 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 work weeks 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 work week 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 during the Circuit Breaker Period if the employer:

- (a) is registered in Singapore;
- (b) has at least 10 employees; and
- (c) implements cost-saving measures that result in the employee's salaries falling below 75% of gross monthly salary for local employees, or 75% of basic monthly salary for foreign employees.

During this period, approval from the Controller of Work Passes need not be sought prior to reducing the salary for foreign employees. Nevertheless, before implementation of the cost-saving measures, employers should consult and get the consent of unions and employees early, and communicate the impact of the measures clearly.

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.

Please note that aside from the abovementioned extension, the government has also provided certain waivers and rebates, for foreign worker levies under the Solidarity Budget (see below).

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 and the 21 April Announcement (see below), the government has announced a waiver of the levies due in April and May 2020 to aid in cash flow, along with rebates 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 Budget Announcements and the 21 April Announcement

As part of the 21 April Announcement, firms will receive more financial support amid the economic slowdown caused by the COVID-19 pandemic. This follows the S\$5.1 billion Solidarity Budget announced on 6 April 2020, 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.

Jobs Support Scheme

The Jobs Support Scheme (JSS) was launched in the Singapore Budget 2020 (Budget 2020) and subsequently enhanced following the 21 April Announcement and the Resilience and Solidarity Budgets to help enterprises retain their local employees (Singapore citizens and permanent residents) during this period of economic uncertainty.

Under the JSS, the Government will co-fund the first S\$4,600 of gross monthly wages paid to each local employee for nine months. There are three levels of support for employers in different sectors. The Tier 1 (Aviation and Tourism) and Tier 2 (Food Services) sectors will receive 75% and 50% of the first S\$4,600 of gross monthly wages for each local employee respectively. All other sectors will receive 25% of the first S\$4,600 of gross monthly wages for each local employee.

For the months of April and May 2020, the government will be supporting 75% of each employee's wages regardless of sector. This is done in order to provide cashflow support for firms during the Circuit Breaker period.

Firms can expect to receive payouts in four tranches: April, May, July and October 2020.

For a detailed computation of each of the payouts, please refer to the resources provided by the Inland Revenue Authority of Singapore.

Employers do not need to apply for the JSS. The grant will be computed based on Central Provident Fund (CPF) contribution data. Note that gross monthly wages include employee CPF contributions, but exclude employer CPF contributions. Employers eligible for the additional tiers of support would have been informed closer to the date of the first payout.

Business owners, being persons that are both a shareholder and director in the company, were previously not eligible for the JSS. However, following the 21 April Announcement, such persons, if they have an assessable income in 2019 of S\$100,000 or less, will be eligible for the JSS and will be back-paid for the month of April in the next payout in May.

MOM Advisory on Responsible Employment Practices

The JSS payouts are aimed at helping employers retain their local employees and continuing paying them salaries during these months, especially during the Circuit Breaker Period. According to a recently updated advisory by the MOM, the enhanced JSS payouts for wages in April and May 2020 are targeted at ensuring that government subsidies go directly to the local employees and that they are assured of a

baseline wage, including the corresponding CPF (Central Provident Fund) contributions to minimise hardship to the employees during the Circuit Breaker Period.

Employers who reduce their employees' wages or put their employees on no-pay leave will have their subsequent JSS payouts in respect of those months reduced correspondingly. The MOM has advised employers should take this into consideration in their planning.

In addition, the MOM has stated that it will investigate complaints against employers who wilfully disregard the advisory and put workers on extended no-pay leave or other cost saving measures without engaging or seeking the consent of their employees and may suspend JSS payouts for these companies until investigations complete. Where there is evidence of irresponsible or unfair treatment, employers may be denied future employment support (including JSS payouts) and have their work pass privileges curtailed.

Wage Credit Scheme

The Wage Credit Scheme (WCS) was enhanced in Budget 2020. 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 Budget 2020 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

Following the Solidarity Budget and the 21 April Announcement, the monthly foreign worker levies due in April and May 2020 will be waived to reduce costs and relieve the pressures on cash flow during the Circuit Breaker Period.

Following the Solidarity Budget and the 21 April Announcement, employers will also be provided with a foreign worker levy rebate of S\$750 for each work permit or S pass holder:

- (a) Employed as of 29 February 2020; and
- (b) Employed as of 1 May 2020.

The employers would have started to receive the rebate in respect of the foreign workers employed as of 29 February 2020 from 21 April 2020.

Please note that aside from the abovementioned waiver and rebate, MOM has also extended the payment deadlines for foreign worker levies (see above).

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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