

## Updated Advisory on COVID-19 Vaccination at the Workplace

On 23 August 2021, the tripartite partners issued an updated advisory on COVID-19 vaccination policies at the workplace (“**Updated Tripartite Advisory**”). The Updated Tripartite Advisory supersedes the tripartite partners’ previous advisory issued on 2 July 2021.

The Updated Tripartite Advisory can be found [here](#).

The Updated Tripartite Advisory underscores the importance of vaccinations at the workplace in Singapore’s defences against COVID-19. It provides welcome guidance on what employers can do to keep workplaces safe. From an employment law perspective, if employers wish to implement the measures set out in the Updated Tripartite Advisory, it would be prudent to ensure that:

- (a) there is a properly drafted vaccination policy explaining the measures the employer will be adopting; and
- (b) the vaccination policy sets out the consequences of not complying with the said policy.

### Vaccinate or Regular Test Regime

From 1 October 2021, the “Vaccinate or Regular Test” (“**VoRT**”) regime will start. Under the VoRT regime, COVID-19 vaccination will be mandatory for employees in the following selected sectors, and unvaccinated employees will be required to take antigen rapid tests twice a week.

- (a) Individuals working in the healthcare sector (e.g., public and private hospitals, traditional Chinese medicine clinics, allied health services), eldercare sector (e.g., nursing homes, senior care centers, residential facilities) and settings with children 12 years and below (e.g., pre-schools, student care centers, tuitions and enrichment centers);
- (b) Individuals working in sectors that interact with members of the public in higher-risk mask-off settings, those working at the borders, and COVID-19 frontline work. These sectors include food and beverage establishments, personal care services with prolonged close contact between individuals, gyms and fitness studios, instructors in the fields of dance, signing, wind/brass instruments, voice and theatre training classes, retail mall workers, workers in supermarket outlets, taxi and private hire drivers, last mile delivery personnel, cleaners in the abovementioned sectors, driving school instructors/private driving instructors, and public transport frontline staff); and
- (c) The Public Service, including uniformed services.

### *All Employers Encouraged to Adopt VoRT Regime*

Under the Updated Tripartite Advisory, all employers are encouraged to follow the example set by the Public Service and consider **adopting the VoRT regime as a company policy for existing employees and new hires**.

### *Vaccination-differentiated Workplace Measures Under VoRT Regime*

The following differentiated workplace measures for vaccinated and unvaccinated employees may be adopted by employers, in consultation with the unions (if applicable):

- (a) **Testing frequency** – Employers may subject unvaccinated employees to more additional COVID-19 tests than vaccinated employees. The frequency of testing can take reference from the frequency under the Ministry of Health’s (“**MOH’s**”) guidelines for the VoRT regime, i.e., twice a week for unvaccinated employees.
- (b) **Work and social events** – Employers may require unvaccinated employees to undergo Pre-Event Testing before participating in work events, or implement reduced group sizes when unvaccinated employees participate in such events, in line with prevailing MOH guidelines.
- (c) **Deployment** – Employers may continue to deploy unvaccinated employees in higher risk activities with regular testing. Employers can also decide whether to redeploy these employees to another job with lower risk of COVID-19 infection, commensurate with the employee’s experience and skills, in accordance with existing redeployment policies. If there are no such existing redeployment policies, terms and conditions for redeployment should be mutually agreed between the employer and the employee.
- (d) **Others** – Employers can also implement other workplace measures, but must be able to justify that such measures are reasonable and necessary for business operations and to better protect the health and safety of all employees. The union and the employer may mutually agree on other vaccination-differentiated workplace measures.

### *Additional Costs Related To Medically Eligible But Unvaccinated Employees Under VoRT Regime*

Employers should bear costs which are necessary and common for both vaccinated and unvaccinated employees.

Employers can require medically eligible but unvaccinated employees to bear the following additional costs required for unvaccinated employees (which costs are incurred over and above those for vaccinated employees):

- (a) COVID-19 related expenses (e.g., cost of test kits, costs of Stay-Home Notice accommodation);
- (b) Employers may require the additional days of leave medically eligible but unvaccinated employees need to take as a result of longer treatment periods or longer movement restrictions to be taken from their existing leave entitlements. If leave entitlements have been exhausted, employers may require such employee to go on no-pay leave.
- (c) Employers may choose to exclude medically eligible but unvaccinated employees from medical benefits associated with COVID-19 (e.g., insurance).

**Under no circumstances should an employer terminate or threaten to terminate the service of an employee on the basis of vaccination status alone.** Employers should also not place employees on no-pay leave for an extended duration without their mutual consent in writing.

However, employers may exercise their right to contractually terminate employment if unvaccinated employees do not comply with reasonable vaccination-differentiated workplace measures.

### *Timeline For Employers to Adopt The VoRT Regime*

Employers should take steps to prepare their workforce early in the lead up to the VoRT regime that will be implemented from 1 October 2021.

Employers who adopt the VoRT regime as their company policy should communicate clearly and in advance to affected employees and jobseekers on the vaccination-differentiated workplace measures and any associated costs to employees who are medically eligible but decline vaccination.

### **Monitoring And Facilitating Vaccination for All Workplaces**

All employers may ask employees for their vaccination status for business purposes (e.g., business continuity planning). Employers that adopt the VoRT regime can further require employees to produce proof of vaccination. Employees who refuse to do so would be treated as unvaccinated for the purposes of the vaccination-differentiated measures and the bearing of costs.

Employers should urge all their medically eligible employees who have yet to be vaccinated to do so, and implement public education programmes on vaccine safety and efficacy for their employees.

Employers should facilitate vaccination by granting paid time-off to employees for COVID-19 vaccination, and additional paid sick leave (beyond contractual or statutory requirement) in the rare event that the employee experiences a vaccine-related adverse event.

Apart from the above, employers are to continue to observe the safe management measures at workplaces as prescribed under prevailing regulations.

If you would like information and/or assistance on the above or any other area of law, you may wish to contact the Partner at WongPartnership whom you normally deal with or any of the following Partners:



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