

Update on COVID-19 Workforce Considerations

The Singapore Government recognises that employers may need to implement cost-cutting measures due to the exceptional circumstances created by the COVID-19 situation, and has issued a number of advisories and guidelines to set out the parameters of such cost-cutting measures.

These advisories/guidelines do not have statutory force. Four of the more relevant advisories/guidelines are:

- (a) The Tripartite Advisory on managing excess manpower and responsible retrenchment ("**Tripartite Advisory**");
- (b) The advisory on retrenchment benefits payable to retrenched employees as a result of business difficulties due to COVID-19 issued on 20 May 2020 by the Ministry of Manpower ("**MOM**"), Singapore National Employers Federation and National Trades Union Congress ("**COVID-19 Advisory**");
- (c) The National Wages Council ("**NWC**") Wage Guidelines issued in March 2020 for the period from 1 April 2020 to 30 June 2021 ("**NWC Guidelines**"), which have been accepted by the Government; and
- (d) The MOM advisory on salary and leave arrangements last updated on 17 July 2020.

We have summarised in the table below, the key guidance on cost-saving measures (save for retrenchment) set out in the advisories/guidelines listed above.

We would highlight that when implementing such cost-saving measures, **employers should consult and, where necessary, seek the consent of employees early, and communicate the impact of the measures to employees clearly.** Employers should also review and restore any adjustments made once their businesses recover.

In the present post "circuit breaker" period, companies registered in Singapore with at least 10 employees **must inform MOM of any measures resulting in employees' salaries falling below 75% of the gross monthly salary for local employees or 75% of the basic monthly salary for foreign employees, within one week of implementation of such measures.** This notification can be made online using the form available at this link: <https://form.gov.sg/#!/5e609fc6835c4b0016dc47e8>.

Measures	Comments
Cost-saving measures	
Adjustments to work arrangements without wage cuts	<ul style="list-style-type: none"> • Employers can consider training and skills upgrading of employees. • Employees can also be redeployed to alternative areas of work within the organisation. • Employers can adopt a flexible work schedule. This allows employers to "bank" the time off given to employees during this period to offset overtime pay when manpower demand peaks. This applies generally only to employees entitled to statutory overtime. Employers will need to seek the support of unions (if applicable) and employees, and thereafter apply to the Commissioner for Labour, before they can implement a flexible work schedule.

Measures	Comments
Adjustments to work arrangements with wage cuts	<p>This is possible only with employee agreement.</p> <ul style="list-style-type: none"> Measures include placing employees on part-time work or sharing of jobs. Employers can also implement a shorter work week. The Tripartite Advisory suggests that employers may: (i) request employees to take up to 50% of their earned annual leave; (ii) implement the reduction in work week such that it does not exceed three days in a week (a reduction of three days should be implemented only if the business is severely affected by the downturn) and does not last more than three months at any one instance, subject to review; and (iii) pay the affected employees not less than 50% of their wages on the non-working days.
Direct adjustment to wages	<p>This is generally only possible with employee agreement. However, where it relates to variable or discretionary components of remuneration, these components may be altered without employee consent. Examples of variable or discretionary components include discretionary bonus payments and/or the monthly variable component.</p>
Unpaid leave	<p>This is possible only with employee agreement.</p>
Furlough (voluntary shut down)	<p>This is possible only with employee agreement.</p> <p>Employers can implement a temporary layoff where the work site is closed for a designated period, or terminate the employment on account of redundancy. The Tripartite Advisory suggests that employers may: (i) request employees to take up to 50% of their earned annual leave; (ii) implement the layoff period such that it does not exceed one month at any one instance subject to review; and/or (iii) pay the employees not less than 50% of their wages during the temporary layoff period.</p>
Layoffs	<p>Employers should ensure that redundancy is conducted in a fair manner. Generally, no statutory redundancy payments are required. However, collective agreements and/or employment contracts may contain contractual provisions relating to redundancy payments. In such cases, those payments must be made. Where there is no contractual right to payment, the Tripartite Advisory nonetheless suggests that redundancy payments of between two weeks to one month of salary per year of service be made to employees who have at least two years of service. For employees with less than two years of service, an <i>ex gratia</i> payment should be made. When making such non-contractual payments, it is usual that employers ask employees to release the employer from all claims arising out of the employment and its termination.</p> <p>The COVID-19 Advisory also sets out guidance on the retrenchment benefits that should be paid to employees who are retrenched as a result of business difficulties due to COVID-19, which scale depending on the employer's financial position (see https://www.mom.gov.sg/covid-19/advisory-on-retrenchment-benefit-to-retrenched-employees).</p>

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	<p>A summary of the retrenchment benefits recommended under the COVID-19 Advisory is as follows:</p> <table border="1" data-bbox="368 454 1441 1146"> <thead> <tr> <th data-bbox="368 454 632 555">Employer's Financial Position</th> <th data-bbox="632 454 1441 555">Retrenchment Benefit</th> </tr> </thead> <tbody> <tr> <td data-bbox="368 555 632 730">Sound financial position</td> <td data-bbox="632 555 1441 730">As stipulated in existing employment contracts, collective agreements, memoranda of understanding, or the prevailing norm of between <u>two weeks and one month's salary per year of service</u>.</td> </tr> <tr> <td data-bbox="368 730 632 871">Businesses adversely affected</td> <td data-bbox="632 730 1441 871">A <u>fair retrenchment benefit linked to the affected employee's years of service</u>, as renegotiated between the employer and the employee or unions.</td> </tr> <tr> <td data-bbox="368 871 632 1146">Severe financial difficulties</td> <td data-bbox="632 871 1441 1146"> <p><u>Unionised employers</u> A <u>mutually acceptable retrenchment benefit</u> as negotiated with their unions.</p> <p><u>Non-unionised employers</u> A <u>lump sum retrenchment benefit of between one and three months' salary</u>.</p> </td> </tr> </tbody> </table> <p>The COVID-19 Advisory also encourages employers to be more generous towards their lower-wage employees (e.g., by providing them with more weeks of retrenchment benefits per year of service and/or additional training grants) and to provide support for retrenched employees in seeking new employment. These recommendations are over and above the existing recommendations set out in the Tripartite Advisory.</p>	Employer's Financial Position	Retrenchment Benefit	Sound financial position	As stipulated in existing employment contracts, collective agreements, memoranda of understanding, or the prevailing norm of between <u>two weeks and one month's salary per year of service</u> .	Businesses adversely affected	A <u>fair retrenchment benefit linked to the affected employee's years of service</u> , as renegotiated between the employer and the employee or unions.	Severe financial difficulties	<p><u>Unionised employers</u> A <u>mutually acceptable retrenchment benefit</u> as negotiated with their unions.</p> <p><u>Non-unionised employers</u> A <u>lump sum retrenchment benefit of between one and three months' salary</u>.</p>
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Voluntary exit	This is possible only with employee agreement.								
Early retirement	<p>This is possible only with employee agreement.</p> <p>Please note that under the Retirement and Re-Employment Age Act, employers cannot terminate an employee's employment on account of his age prior to that employee reaching the statutory retirement age. Further, that Act also provides for the re-employment of eligible employees who have reached their retirement age. Presently, employers are to re-employ employees up to the age of 67.</p>								
Other relevant considerations	<p>Under the NWC Guidelines, employers should consider the following cost-cutting measures (in descending order of priority):</p> <ul style="list-style-type: none"> (a) Reducing non-wage costs and managing excess manpower; (b) Tapping on Government support to offset business and wage costs and/or transforming the business and workforce; (c) Reducing wage costs; and 								

Measures	Comments
	<p>(d) Retrenching workers as a last resort.</p> <p>The MOM Advisory on salary and leave arrangements also suggests (among other matters) that employers who are not able to implement cost-cutting measures can use the enhanced Jobs Support Scheme pay-outs of April and May 2020 (discussed further below) to help cover their fixed overheads, instead of resorting to retrenchment or prolonged no-pay leave.</p>
Governmental support schemes	
<p>Jobs Support Scheme (“JSS”)</p>	<p>The JSS aims to help employers retain local employees (i.e., Singapore Citizens and Permanent Residents) during the slowdown arising from the COVID-19 outbreak by providing cash subsidies to employers to help cover wages paid over a 10-month period (for October to December 2019 and February to August 2020), with payouts under the scheme taking place in April, May, July, and October 2020. The JSS payouts in July and October 2020 will cover (among others) wages paid from February to August 2020 and will be computed based on the actual wages paid in those months to employees. Further information is available on the Inland Revenue Authority of Singapore’s website (see https://www.iras.gov.sg/irashome/Schemes/Businesses/Jobs-Support-Scheme--JSS-/).</p> <p>Under the scheme, for the months of April and May 2020, all employers will receive a cash grant of 75% of the first \$4,600 of each local employee’s gross monthly wages¹, as additional support to employers during the “circuit breaker” period from 7 April to 1 June 2020 (both dates inclusive) (“Circuit Breaker Period”). <u>If an employer has not paid wages in April and May 2020, it will not benefit from this temporary enhancement for the months of April and May 2020.</u></p> <p>For all other months, the cash grant will range from 25% to 75% of the first \$4,600 of gross monthly wages for local employees, depending on the sector in which the relevant employer operates.</p> <p>The May 2020 and subsequent payouts will also include support for qualifying shareholder-directors and the May 2020 payout will include back-payment for companies with qualifying shareholder-directors whose wages were excluded from the first JSS payout in April 2020.</p>
<p>Wage Credit Scheme</p>	<p>Under this scheme, the Government co-funds a percentage of wage increases given to Singapore citizen employees. In light of the COVID-19 situation, the Government’s co-funding ratios for wage increases in 2019 and 2020 will be raised to 20% and 15% respectively. The qualifying gross monthly wage ceiling will also be raised by \$1,000 to \$5,000 for both years.</p>

¹ Gross monthly income from work refers to income earned from employment. For employees, it refers to the gross monthly wages or salaries before deduction of employee central provident fund (“CPE”) contributions and personal income tax. It comprises basic wages, overtime pay, commissions, tips, other allowances and one-twelfth of annual bonuses. Gross monthly income excludes employer CPF contributions.

Measures	Comments
Foreign worker levy ("FWL")	<p>Under the Solidarity Budget and the enhanced measures introduced during the Circuit Breaker Period, the monthly FWL payable in April and May 2020 have been waived, given that employers also hire foreign employees on work permits² and S passes.³</p> <p>Additionally, for each of April and May 2020, <u>employers who have paid FWL in full for the period up to and including December 2019 will be provided a flat-rate FWL rebate of \$750 for each work permit or S pass holder in their employment as at 29 February 2020 (for the April rebate) and 1 May 2020 (for the May rebate). To be eligible for the May rebate, the employer must have made an online acknowledgment that the levy rebate will be used to provide for the pay and upkeep of foreign workers during the Circuit Breaker Period.</u></p> <p>The FWL waiver has also been extended for two months to July 2020 for businesses that are not in the Ministry of Trade and Industry's permitted list to resume full operations on-site, and for all businesses in the construction, marine shipyard and process sectors. Under the MOM advisory on salary and leave arrangements, the FWL rebate will, from August 2020, be extended at a lower rate to provide continued support to businesses in the construction, marine shipyard and process sectors.</p>

This update is accurate as at 30 July 2020.

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



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² Work permits for foreign workers refers to work permits in respect of semi-skilled foreign workers in the construction, manufacturing, marine shipyard, process or services sector. Work permits do not cover foreign professionals, managers and executives who earn at least \$3,600 a month and have the relevant acceptable qualifications.

³ S passes cover mid-level skilled staff who earn at least \$2,400 per month and meet the relevant assessment criteria to be considered for an S pass.

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