

Employment & Benefits

Managing Manpower Costs: New Guidelines on Wage Cuts and Updated Tripartite Advisory on Retrenchments

Introduction

In an encouraging sign, Singapore's third-quarter economic growth has expanded by 7.9% in the third quarter from the 13.2% contraction in the preceding quarter. However the economic fallout of COVID-19 will not dissipate anytime soon, especially as new waves of infections continue to surge worldwide. While the government has been encouraging businesses to retain workers where possible, it is now acknowledged that retrenchments and/or wage cuts may be inevitable. Accordingly, there have been two new developments for employers to take note of:

1. Release of the National Wages Council's ("NWC") 2020/2021 Supplementary Guidelines ("**Supplementary Guidelines**"), which will apply from 1 November 2020 to 30 June 2021; and
2. Updates to the Tripartite Advisory on Managing Excess Manpower and Responsible Retrenchment as of 17 October 2020 ("**Updated Advisory**") issued by the tripartite partners, being the Ministry of Manpower ("**MOM**"), the National Trades Union Congress ("**NTUC**") and the Singapore National Employers Federation ("**SNEF**").

The Supplementary Guidelines sets out principles for wage cuts, while the Updated Advisory provides guidance on conducting retrenchment exercises.

Supplementary Guidelines: Key Principles for Wage Cuts

The [Supplementary Guidelines](#) set out six key principles:

1. Wage cuts may be implemented by employers who have adopted the [Flexible Wage System \("FWS"\)](#) in the following manner:
 - a. A flexible wage is one that has a sizeable variable component, such that employees can be rewarded with bigger bonuses during good times, while employers can better manage their wage costs in difficult times. Wage cuts can thus be implemented by adjusting the variable components rather than the basic wage component.
 - b. The Supplementary Guidelines sets out recommendations on the variable components for three tiers of workers:



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- i. Rank-and-file employees: 30% of the total wage package on an annual basis (i.e. 10% for the Monthly Variable Component and 20% for the Annual Variable Component ("**AVC**"), inclusive of the Annual Wage Supplement ("**AWS**"));
 - ii. Middle management: 40% of the total wage package; and
 - iii. Senior management: 50% of the total wage package.
 - c. Employers should utilise the range of flexibility provided for in the FWS structure by reducing the variable components where necessary. To avoid retrenchments, employers can also consider a temporary reduction of basic wages after the variable components have been adjusted.
2. Employers who have not adopted the FWS may also implement wage cuts but should implement the FWS immediately by treating the wage cuts as adjustments for a new variable component.
3. Pay cuts at the managerial level should be implemented earlier and more deeply, so as to lead by example.
4. For companies that pay an AWS – colloquially known as the 13th month payment – this can be considered as part of the adjustable AVC *if* it is indeed a genuine AWS and not deferred basic wages.
5. In ascertaining a reasonable level of wage cuts, employers should have regard to the following:
 - a. Performance and outlook of their company and sector;
 - b. Level of government support;
 - c. Cumulative effect of prior wage cuts and cost-saving measures;
 - d. Ability of employees from different salary tiers to cope with wage cuts; and
 - e. Ensuring that wage cuts are fair and reasonable, bearing in mind that employees still have basic expenses to upkeep.
6. Unionised companies should negotiate and agree on wage adjustments and FWS implementation with the union where possible. For non-unionised companies, employers should take a proactive and transparent approach in communicating with employees on cost-saving measures to be implemented.

NWC emphasised that businesses should have special consideration for low-wage workers, and implement pay freezes instead for workers earning below \$1,400. Employers ought to avoid cutting basic monthly wages to below \$1,400. Wage cuts should be restored when business conditions allow, with discussions with the unions (where applicable) and provisions of guidelines on wage restoration to employees.

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It is worth noting that the tripartite partners and NWC have elected not to call for a reduction of employer Central Provident Fund ("CPF") contributions as it would be an overly blunt tool, and the burden would fall disproportionately on local employees.

Updated Advisory: Principles for Retrenchments

The [Updated Advisory](#) has added Annex B and Annex C, with Annex B comprising a checklist of responsible retrenchment practices, while Annex C covers notification requirements and retrenchment benefits payable to affected employees. The Updated Advisory also sets out key principles for employers to comply with when carrying out retrenchment exercises:

1. **Objective selection criteria** – Employees should be selected for retrenchment based on objective criteria such as their ability, experience, and skills that can contribute to business sustainability. These criteria must be implemented consistently, and employers must avoid discrimination on grounds of age, race, gender, religion, marital status and family responsibility, or disability. Complaints of discrimination will be investigated by MOM, with enforcement action taken if such complaints are proven, such as the suspension of work pass privileges.
2. **Maintaining a strong Singaporean core** – retrenchments generally should not result in a reduced proportion of local employees; in fact, employers are encouraged to retain proportionately more locals during a retrenchment exercise.
3. **Clear communication and notifications** – employees should be notified early of the intent to carry out a retrenchment exercise so as to enable them to be mentally prepared for the eventuality. Announcements should outline how the retrenchment exercise will be carried out, including the factors that will be considered and the assistance that will be offered to those who are affected. Additionally, retrenchments should be carried out respectfully and compassionately, such as providing longer notice periods where possible and avoiding requesting the employees' immediate departure from the workplace unless it is legitimately necessary to do so.

Generally, employers must notify MOM of retrenchments within five working days after their employees are notified, pursuant to the Mandatory Retrenchment Notifications requirement under the Employment Act. More details on ascertaining which employers the notification requirement applies to are available [here](#).

Concluding Remarks

In these times of economic difficulty, the government has provided significant financial support to businesses, and repeatedly encouraged employers to take a long-term view of their manpower needs. Employers should maintain a strong Singaporean core by building up and facilitating the transfer of critical skills to their local employees, and position themselves to emerge stronger from the COVID-19

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crisis. Retrenchments should remain a last resort, and appropriate support should be offered to affected employees, ranging from counselling to practical assistance in obtaining employment elsewhere.

For businesses under economic stress, cost-saving measures and/or retrenchments must be carried out responsibly and in compliance with the Supplementary Guidelines and Updated Advisory. If companies act irresponsibly in cost-saving measures or retrenchments, MOM has warned that it will consider denying them future government support or a suspension of work pass privileges. Further, employers must also fulfil their obligations to notify MOM of their cost-saving measures and/or retrenchment exercises where applicable and in a timely manner.

Any queries on employment matters may be directed to the team below, who are well placed to advise on these issues.

Visit our [COVID-19 Resource Centre](#) for views from our lawyers across the region on common issues and legal implications brought about by COVID-19. For specific inquiries, please reach out to your relationship partner or send an email to our [COVID-19 Legal Team](#).

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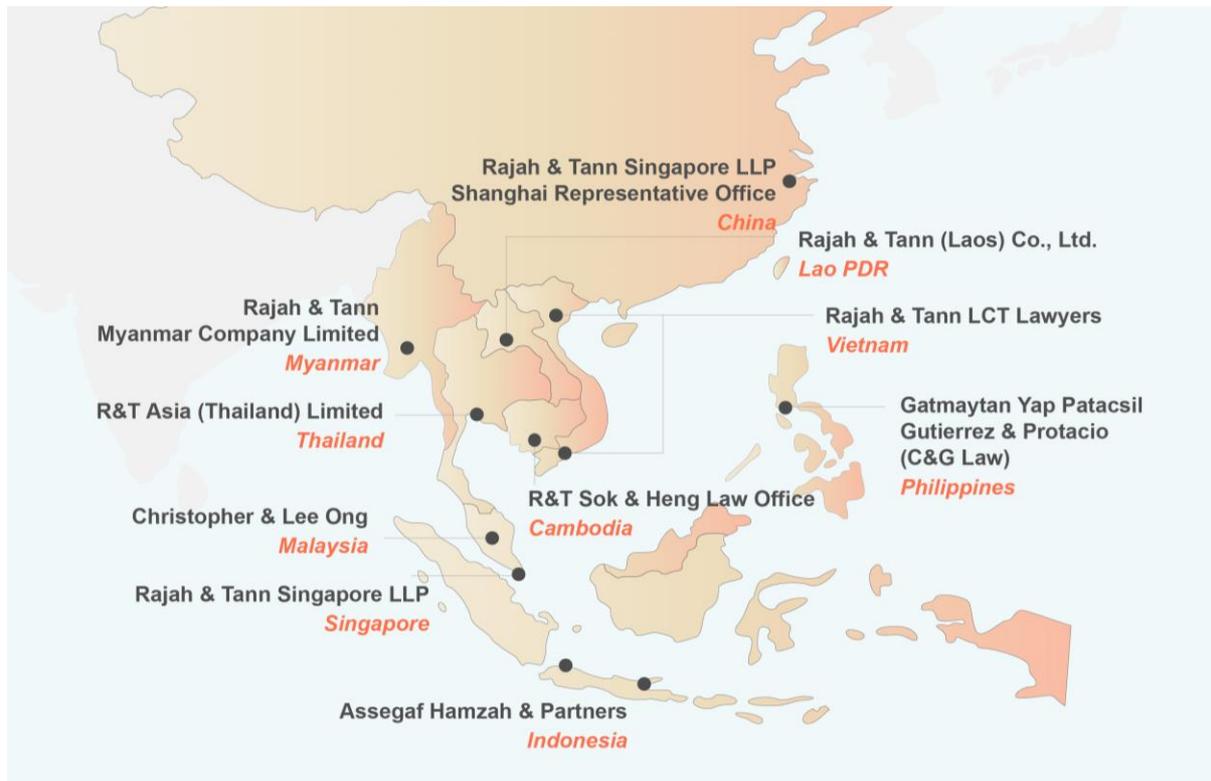
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