

COVID-19: NAVIGATING THE ISSUES FACED BY EMPLOYERS IN SINGAPORE

Date: 11 March 2020

Labor, Employment and Workplace Safety Alert

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The ongoing COVID-19 outbreak has brought about a whole range of novel legal considerations for employers in Singapore.

STAY-HOME ORDERS

There are mainly two types of “stay-home orders” which are currently being implemented in Singapore. They are the:

- Quarantine Order (“QO”); and
- Stay-Home Notice (“SHN”).

A QO is a directive issued to quarantine or isolate an individual who is, or is suspected to be, a carrier or contact of an infectious disease.

A SHN is a new measure that took effect on 18 February 2020, effectively replacing the then prevailing leave of absence (“LOA”) measure, which was less stringent. The SHN would be issued to individuals returning to Singapore from certain designated regions within the last 14 days from their date of return.

OBLIGATION TO PAY EMPLOYEE SALARIES

QOs are served on individuals by the Ministry of Health (“MOH”). The period of absence from work necessitated by the QOs should be treated as paid hospitalization leave, as part of the employer's hospitalization leave eligibility under their employment contracts, collective agreements, or under the Employment Act. For employees who have used up their paid hospitalization leave, employers are urged (but not statutorily mandated) to exercise compassion and flexibility by granting additional paid hospitalization leave.

During the SHN period, if remote working is not possible, employers are encouraged to provide additional paid leave on top of the employees' annual leave entitlements for the SHN, especially if the reason for the employee being on SHN is that he had to undertake work-related travel. If that is not feasible, employers can consider the following options, or a combination of the options, for the employees on SHN:

- Treat employees' SHN as paid hospitalisation leave or paid outpatient sick leave;

- Allow employees to apply for annual leave;
- Allow employees to use advanced paid leave or apply for no pay leave, for employees who have used up their leave entitlements; or
- Other mutually agreed arrangements between the employers and employees/unions.

The Ministry of Manpower (“MOM”) is providing support to help businesses who are affected by the SHNs in the form of a SHN Support Programme. The MOH has similarly put in place a Quarantine Order Allowance Scheme. Both of these are in place to mitigate the financial impact for employers of those who have been served QOs/SHNs, subject to the fulfilment of eligibility criteria.

OBLIGATION TO PROVIDE A SAFE WORK ENVIRONMENT

Under the Workplace Safety and Health Act, employers in Singapore have a duty to take, as far as is reasonably practicable, such measures as are necessary to ensure the safety and health of its employees at work. Employers also have similar obligations under common law.

DATA PRIVACY ISSUES ARISING FROM CONTACT TRACING

The Personal Data Protection Commission advisory provides that organisations may collect personal data of visitors to premises for purposes of contact tracing and other response measures in the event of an emergency, such as during the outbreak of COVID-19.

In the event of a COVID-19 case, relevant personal data can be collected, used, and disclosed without consent during this period to carry out contact tracing and other response measures, as this is necessary to respond to an emergency that threatens the life, health, or safety of other individuals.

Organisations that collect such personal data must comply with the data protection provisions of the Personal Data Protection Act 2012.

TEMPERATURE TAKING

Employers are encouraged to take the temperatures of employees and visitors, and record their names, NRIC/FIN/Passport numbers (for visitors), and temperatures during this period of time. It is also permitted and advisable to monitor employees and visitors for other respiratory symptoms such as coughing, runny nose, shortness of breath, and breathing difficulties.

REGULATORY ENFORCEMENT

The local regulators take contraventions of the COVID-19 measures very seriously, and have been actively enforcing these measures against employers and work-pass holders.

As of 24 February 2020, the MOM has punished a total of 10 work-pass holders and nine employers for flouting MOM's LOA requirements.

WHAT WE CAN DO TO ASSIST

We can assist with advising on the details of the employers' obligations above, as well as provide guidance on advisories issued by the various government agencies, and best practices during this period. For HR teams who are based outside of Singapore, we will also be able to advise on the situation on the ground, as well as common practices across companies here in Singapore.

If you would like to take this opportunity to review your COVID-19 practices globally, K&L Gates has lawyers across 45 offices globally who would be happy to assist you with your specific requirements, and with the convenience of a single point of contact.

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