

# Updated Tripartite Advisory on COVID-19 Vaccination at Workplace

On 23 October 2021, the Ministry of Manpower (“**MOM**”) announced that **from 1 January 2022, employers must ensure that unvaccinated employees do not return to the work place** unless they have a negative Pre-Event Testing (“**PET**”) result<sup>1</sup>. On the same day, the Tripartite partners also issued an updated advisory on COVID-19 vaccination at the workplace to provide guidance to employers in response to MOM’s new guidelines (“**Updated Advisory**”).

These new measures follow the considerable progress made in vaccinating our workforce. As of 17 October 2021, 70% of firms have attained 100% vaccine coverage for their workforce. 96% of the total workforce has been vaccinated.

We set out below a summary of the Updated Advisory. The full terms of the Updated Advisory can be found at <https://www.mom.gov.sg/covid-19/advisory-on-covid-19-vaccination-in-employment-settings>.

## Work arrangements for medically eligible but unvaccinated employees

### *Work that can be performed at home*

Employers may allow unvaccinated employees to continue to work from home, although this remains the employer’s prerogative.

### *Work that cannot be performed at home*

Employers can:

- (a) Allow them to continue in the existing job with PET done at the employees’ own expense and own time (i.e., outside of working hours); or
- (b) Redeploy them to suitable jobs which can be performed from home (if so available). The remuneration should be commensurate with the responsibilities of the alternative jobs; or
- (c) Place the unvaccinated employees on no pay leave. As a last resort, employers can terminate their employment (with notice), in accordance with the terms of the employment contract. Termination of employment due to employees’ inability to be at the workplace to perform their contracted work would not be considered as wrongful dismissal. This is different from the previous advisory where employers were not, under any circumstances, to terminate or threaten to terminate the service of an employee on the basis of vaccination status alone.

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<sup>1</sup> From 1 January 2022, employers must ensure only the following employees can return to the workplace: (i) employees who are fully vaccinated with a vaccine under the National Vaccination Programme or WHO Emergency Use Listing and their respective post-vaccination duration; (ii) employees who have recovered from COVID-19 within the past 270 days; (iii) unvaccinated employees who have tested negative for COVID-19 within 24 hours of returning to the workplace, *via* a Pre-Event Test at an MOH-approved COVID-19 test provider. Employees who are medically ineligible for all the vaccines under the National Vaccination Programme are exempted from the testing requirement above if they need to work on-site. See also: <https://www.mom.gov.sg/covid-19/requirements-for-safe-management-measures>

## Work arrangements for unvaccinated employees who are medically ineligible for vaccines under the National Vaccination Programme

For such employees, employers can consider the following measures:

- (a) Allow employees to work from home if they are able to do so. These employees' absence from the work place should however not affect the assessment of their performance; or
- (b) Redeploy them to suitable jobs which can be performed from home (if so available). The remuneration should be commensurate with the responsibilities of the alternative jobs; or
- (c) Exempt these employees from the PET requirements, if they need to work on-site.

## Work Arrangements for pregnant employees

Employers are strongly encouraged to give special consideration to the needs and concerns of their pregnant employees. Employers can consider adopting the same measures for them as set out in (a) and (b) above for unvaccinated employees who are medically ineligible for vaccines under the National Vaccination Programme.

## Other vaccination related issues

Employers should encourage their employees to be vaccinated. Companies may now check their company's vaccination rate *via* a new web service – <https://go.gov.sg/percentvaccinated> (Corppass required).

All employers may ask employees for their vaccination status for the purpose of planning deployment at the workplace.

Employers may require employees to produce proof of vaccination before reporting to the workplace. Employees who refuse to do so would be treated as unvaccinated.

Employers should facilitate vaccination by granting paid time-off to employees for their vaccination (including vaccination booster shots), and additional paid sick leave (beyond contractual or statutory requirements) if the employee experiences a vaccine-related adverse reaction.

## Concluding comments

As the situation remains fluid, COVID-19 advisories are often subject to swift changes.

During this current stabilisation phase (27 September 2021 – 21 November 2021), work from home remains the default working arrangement. Vaccinated employees who need to return to the workplace for *ad hoc* reasons are strongly encouraged to take an Antigen Rapid Test and test negative before returning on-site.

Employers should continue to keep abreast of such changes. Requirements for Safe Management Measures at the workplace remain applicable.

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:



**Jenny TSIN**

Joint Head – Employment

d: +65 6416 8110

e: [jenny.tsin](mailto:jenny.tsin@wongpartnership.com)

[@wongpartnership.com](mailto:jenny.tsin@wongpartnership.com)

Click [here](#) to view Jenny's CV.



**Vivien YUI**

Joint Head – Employment

d: +65 6416 8009

e: [vivien.yui](mailto:vivien.yui@wongpartnership.com)

[@wongpartnership.com](mailto:vivien.yui@wongpartnership.com)

Click [here](#) to view Vivien's CV.



**HO Wei Jie**

Partner – Commercial & Corporate  
Disputes

d: +65 6517 3780

e: [weijie.ho](mailto:weijie.ho@wongpartnership.com)

[@wongpartnership.com](mailto:weijie.ho@wongpartnership.com)

Click [here](#) to view Wei Jie's CV.

 Connect with WongPartnership.

# WPG MEMBERS AND OFFICES

- [contactus@wongpartnership.com](mailto:contactus@wongpartnership.com)

## SINGAPORE

-

WongPartnership LLP  
12 Marina Boulevard Level 28  
Marina Bay Financial Centre Tower 3  
Singapore 018982  
t +65 6416 8000  
f +65 6532 5711/5722

## CHINA

-

WongPartnership LLP  
Shanghai Representative Office  
Unit 1015 Link Square 1  
222 Hubin Road  
Shanghai 200021, PRC  
t +86 21 6340 3131  
f +86 21 6340 3315

## MYANMAR

-

WongPartnership Myanmar Ltd.  
Junction City Tower, #09-03  
Bogyoke Aung San Road  
Pabedan Township, Yangon  
Myanmar  
t +95 1 925 3737  
f +95 1 925 3742

## INDONESIA

-

Makes & Partners Law Firm  
Menara Batavia, 7th Floor  
Jl. KH. Mas Mansyur Kav. 126  
Jakarta 10220, Indonesia  
t +62 21 574 7181  
f +62 21 574 7180  
w [makeslaw.com](http://makeslaw.com)

[wongpartnership.com](http://wongpartnership.com)

## MALAYSIA

-

Foong & Partners  
Advocates & Solicitors  
13-1, Menara 1MK, Kompleks 1 Mont' Kiara  
No 1 Jalan Kiara, Mont' Kiara  
50480 Kuala Lumpur, Malaysia  
t +60 3 6419 0822  
f +60 3 6419 0823  
w [foongpartners.com](http://foongpartners.com)

## MIDDLE EAST

-

Al Aidarous Advocates and Legal Consultants  
Abdullah Al Mulla Building, Mezzanine Suite 02  
39 Hameem Street (side street of Al Murroor Street)  
Al Nahyan Camp Area  
P.O. Box No. 71284  
Abu Dhabi, UAE  
t +971 2 6439 222  
f +971 2 6349 229  
w [aidarous.com](http://aidarous.com)

-

Al Aidarous Advocates and Legal Consultants  
Zalfa Building, Suite 101 - 102  
Sh. Rashid Road  
Garhoud  
P.O. Box No. 33299  
Dubai, UAE  
t +971 4 2828 000  
f +971 4 2828 011

## PHILIPPINES

-

ZGLaw  
27/F 88 Corporate Center  
141 Sedeño Street, Salcedo Village  
Makati City 1227, Philippines  
t +63 2 889 6060  
f +63 2 889 6066  
w [zglaw.com/~zglaw](http://zglaw.com/~zglaw)