

The Coronavirus outbreak – What Employers in Singapore should know

This update takes a look at some of the issues faced by employers arising from the novel Coronavirus situation.

1. Employers have a legal duty to provide a safe workplace

This obligation exists under common law and statute.

Common law imposes a duty on employers to take reasonable care for the safety of their employees in all circumstances (per V K Rajah JA in *Chandran a/l Subbiah v Dockers Marine Pte Ltd* [2010] 1 SLR 786 at [15]). A breach of the common law duty exposes employers to civil claims.

In respect of the statutory regime, the Workplace Safety and Health Act (“**WSHA**”) obliges employers to implement, as far as reasonably practicable, necessary measures to ensure the safety and health of their employees at work. A breach of the WSHA would be a criminal offence.

2. Employers should put in place measures to prevent a breach of their legal duty

By way of illustration, the following could be adopted:

- a. Keep up to date and comply with advisories issued by the Ministry of Manpower (“**MOM**”) and Ministry of Health (“**MOH**”) / other government agencies.
- b. Provide a safe working environment by implementing daily temperature checks, distributing masks or hand sanitizers.
- c. Step up cleaning of workplace premises with more frequent cleaning of areas with high human contact.
- d. Adopt the sanitation and hygiene advisories disseminated by the National Environmental Agency.
- e. Establish clear guidelines to all staff on how to handle colleagues or customers/clients who are unwell.
- f. Train the HR team on how to reply to queries from employees generally.
- g. Put in place Business Continuity Plans.
- h. Issue health / travel declarations, and have employees fill it out. Ask employees to inform the employer immediately if circumstances change.

3. Specific legal obligations imposed by MOM arising from the ongoing 2019-nCoV situation

MOM has imposed the following obligations on employers:

- a. Request and obtain MOM's prior approval before work pass holders (with travel history to mainland China within the last 14 days) commence their journey to enter/return to Singapore, regardless of the affected work pass holder's nationality.
 - i. The request is done via an online form. Applications submitted will generally be processed on the same day (if it is submitted before 12 noon) or the next day (if it is submitted after 12 noon).
 - ii. The request for approval must be made 3 days before the employee's planned arrival date. Employees should not make travel plans to Singapore until the employers have sought and received approval from MOM.
 - iii. This requirement applies to both existing work pass holders currently not in Singapore and In Principle Approval (IPA) holders who have yet to enter Singapore.
 - iv. Employees will need to present MOM's approval letter to airline staff upon check-in and at the ICA checkpoint upon arrival in Singapore.
- b. Employers of foreign employees who have travelled to mainland China within 14 days before arriving in Singapore from 31 January 2020, 6pm are to:
 - i. Inform the affected employees that they will be on a mandatory 14-day leave of absence ("LOA") upon arrival in Singapore and obtain their written acknowledgement of the LOA.
 - ii. Declare to MOM immediately that they have informed the affected foreign employees of the mandatory 14-day LOA requirement.
- c. Employers of foreign employees who have (i) either passports issued in Hubei province and are currently overseas or (ii) travelled to Hubei province within the last 14 days and are currently overseas, regardless of nationalities, are to:
 - i. Defer the affected employees' entry/return to Singapore as far as possible until further notice from MOM.
 - ii. Inform MOM of affected employees' travel plans immediately.

4. Employers are responsible for the accommodation of work pass holders who are on LOA and also to ensure the employee's compliance with the LOA

As part of the declarations made to MOM to allow work pass holders with travel history to mainland China within the last 14 days to return to Singapore, MOM requires the employer to make (among others) one of the following declarations:

That the employer has:

- a. contacted the employee's private residential or HDB landlord and obtained the landlord's written consent to house the employee throughout the LOA period;
- b. booked a hotel room for the employee to serve the LOA;
- c. secured a dormitory room for the employee to serve the LOA;
- d. not secured any accommodation for the employee. (In this case, MOM may possibly request for some confirmation that there will be accommodation provided, or not provide approval for the request.)

The employer also has to declare that:

- a. It will ensure its employee complies with the mandatory 14-day LOA requirement.
- b. It understands that it has a joint duty with its employee to ensure its employee will act responsibly during the LOA (e.g., remain in their residences, avoid social contact and work from home where appropriate).
- c. Its employee will only arrive in Singapore after he/she has obtained MOM's approval.
- d. It is aware that MOM will suspend or deny its work pass privileges and also take action against employees, including revoking their passes, if the employer does not comply with the above requirements.

5. Contraventions of the LOA provisions are dealt with swiftly and severely

MOM takes contraventions of the declarations / LOA provisions very seriously. On 9 February 2020, it was reported that MOM revoked the work passes of 4 work pass holders and suspended the work pass privileges of 6 employers for two years. The work pass holders were repatriated within 24 hours and they have also been banned from working in Singapore permanently. Further, the provision of a false declaration to MOM would also be an offence.

6. Suggested steps which employers can put in place for employees on LOA

- a. Obtain employee's written acknowledgment of the LOA.
- b. Inform employees to act responsibility during their LOA (e.g., to remain in their residences, avoid social contact and work from home where appropriate) and keep a record of such communications.
- c. Keep in regular contact with the employee. Have the employee confirm daily that he/she is in compliance with the LOA requirements.
- d. Ask the employee to take his/her temperature twice daily and to inform the employer immediately if there is an onset of any symptoms (e.g., fever $\geq 38^{\circ}\text{C}$, cough or shortness of breath etc.). Employees should be told to see a doctor if they are unwell.

- e. Under no circumstance should the employer allow the employee to attend work, even if it is to simply pick up items. Employers may allow employees to work from home.
- f. For foreign employees who are work pass holders on LOA, ensure they have a place to stay.

7. Employers should be flexible and supportive towards employees during this time

MOM urges employers to be flexible and supportive towards their employees during this time. In this respect, MOM encourages employers to provide paid LOA over and above employees' annual leave entitlement. If that is not possible, employers can consider adopting one / a combination of the following options:

- a. Treat it as part of the paid hospitalisation leave or paid outpatient sick leave;
- b. Allow employees to apply for annual leave;
- c. Allow employees to use advanced paid leave or no pay leave, for employees who have used up their leave entitlements; or
- d. Other mutually agreed arrangements.

As the situation is constantly evolving, employers should always refer to the latest advisories issued by MOH, MOM and other government agencies. This update is accurate as at 11 February 2020.

If you would like information on this 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:



Jenny TSIN

Joint Head – Employment Practice
d +65 6416 8110
e jenny.tsin@wongpartnership.com
Click [here](#) to view Jenny's CV.



Vivien YUI

Joint Head – Employment Practice
d +65 6416 8009
e vivien.yui@wongpartnership.com
Click [here](#) to view Vivien's CV.

WPG MEMBERS AND OFFICES

- 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 Corporate Avenue 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

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

MIDDLE EAST

-

Al Aidarous International Legal Practice
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

-

Al Aidarous International Legal Practice
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