Tripartite guidelines on mandatory retrenchment notifications

SNEF works closely with our tripartite partners to help employers implement best employment practices. A new Trilateral Advisory Opinion on mandatory redundancies and revised guidelines on over-labour management were issued today, 25 November 2016. Trilateral partners urge employers to consider alternative ways of managing excess labour, as well as a longer-term understanding of their staffing needs, including the need to maintain a strong Singaporean core. Please note that from January 1, 2017, under the Singapore Human Resources Agency Act, employers will be required to notify the Ministry of Labor (MOM) of the reduction within 5 business days after they have provided a reduction notice to affected employees. Trilateral partners have issued recommendations to guide employers to comply with this new legal requirement. Please click here for the Trilateral Guidelines for Managing Excess Workforce and Responsible Reduction (revised, as of November 2016). Please click here for the Trilateral Advisory on mandatory reduction notice. From January 1, 2017, new requirements for mandatory reduction notices will come into force. Trilateral partners have issued guidance to guide employers to comply with this requirement. Under the South Singapore Agency Act, employers will be required to notify the Department of Labor (MOM) of a reduction within 5 working days after they are notified of the reduction of affected workers if 5 or more workers are cut over a six-month period starting January 1, 2017. Not knowing the deadline is an offence and can be prosecuted, including a fine of no more than $5,000. Related Links Wage Services Recruitment Guide in Singapore ShareMailTweetLinkedinSubscribePrint (a) Impact on employment in the event of mergers, mergers and business sales in Singapore, layoffs, business transfers and reorganizations are generally subject to contract. According to the ea, employees are legally protected in the event of the transfer of business, including the disposal of business as a problem or transfer is carried out through the sale, merger, merger, reconstruction or operation of the right. Under article 18A of the EA, among other things, if the enterprise or part of it is transferred from one person to another, the transfer must not act to terminate the service contract of any person hired transferred to the enterprise or part transferred. Instead, there will be an automatic transfer of an employment contract without continuity of work, and the conditions of service for the transferred workers will be the same as those used immediately before the transfer. Transfer worker is also required to inform and advise workers and/or trade union unions affected by the transfer of business as soon as it is reasonable and before the transfer of the business occurs, for example, through a notice to affected employees. (b) The Reduction Benefits Act does not entitle an employee to reduce benefits in connection with the dismissal or reorganization of an employer's business. In fact, while the quant of benefit reductions (if any) can be agreed in an employment contract or collective bargaining agreement, EA splits part IV employees (i.e. an employee on a salary of no more than S$4,500 per month or a non-working employee, except managers and managers whose salary is no more than S$2,600 per month) who have worked for 2 years continuously or less on the right to reduction benefits (if there are). Even where the employee has been working continuously for 2 years or more, under Singaporean law, the employee still does not enjoy the automatic right to reduce benefits, as the employer in Singapore has no legal obligation to provide reduction benefits in such cases. Regardless of whether the ea counsel applies, the employee is not entitled to a benefit reduction if his or her employment contract or applicable collective bargaining agreement, so provides. If an employment contract or applicable collective bargaining agreement does not provide this, the quantum must be agreed between the employees (or through their union) and the relevant employer. In accordance with the Trilateral Advisory Council on the Management of Excess Labour and Responsible Reduction (see below), the prevailing rule is to pay a benefit reduced from 2 weeks to 1 month of service, subject to industry standards. (c) Ex-gratia payments In the event of dismissal for dismissal the employer can make a payment to the ex-gratia employee. However, under Singapore's common law, the employer is not obliged to make such a payment on the basis of its past practice. (d) The duration of the notice of termination of the contract under the EA does not provide for specific requirements for the duration of the notice granted in the event of termination of activities in connection with dismissal or reorganization. The relevant notice period will apply (as indicated in 6 (c) above). However, in the event of a reduction, the IOM recommends that employers inform affected workers as far as possible of the impending cuts before being notified of the redundancies. (e) Union intervention in cases where the employee is a member of a trade union, while trade unions may consult with the employer prior to the transfer of enterprises, section 18 (2) (d) ira prohibits trade union intervention/collective bargaining in connection with terminations in connection with dismissal or reorganization or in connection with the criteria for such dismissal. Once Business will be completed, the new employer will also have to take on the rights, powers, duties and obligations of the previous employer employer are part of any contract or agreement with the workers' union prior to transfer. (f) The Trilateral Guidelines for Fair Employment Guidelines For the Trilateral Guidelines for Fair Employment Practices require, that the selection of staff for staff reductions is based on objective criteria, (ii) to ensure that staff reductions are carried out responsibly in consultation with a union (if the employer is a union), or with employees affected by this issue (if the employer is not a union), and (iii) referring to the Trilateral Advisory Commission on the Management of Excess Labour and Responsible Reduction of Alternatives to The Union in order to avoid or minimize the need for reduction. (g) In March 2020, in light of the negative impact of the COVID-19 pandemic, the Trilateral Advisory Group on The Management of Excess Workforce and Responsible Workforce Reduction (MEMRR Advisory Services) of the Trilateral Advisory Council on The Management of Excess Workforce and Responsible Workforce Reduction was updated. A copy of the revised advisory document can be obtained here. Trilateral partners - MOM, National Trade Union Congress (NTUC) and Singapore National Federation of Employers (SNEF) have developed the MEMRR Recommendation for implementation. MEMRR Advisory suggests that as businesses adjust, they should consider alternative ways - to manage their excess workforce - such as upskilling and reorganizing the jobs of MEMRR Advisory provides various alternatives an employer may consider before resorting to retrenching their employees. Alternatives include: (i) adjusting work mechanisms without reducing wages; Adjustment of work arrangements with wage cuts; Direct salary adjustments; and (iv) leave without payment. These measures were generally classified on the basis of the seriousness of their impact on staff. Measures to adjust the mechanisms of work with or without wage reduction tend to apply more to employers who wish to reduce or suspend business activities due to a short temporary decline in business activities. This is particularly true during the press, given that on 21 April 2020, the Ministry Task Force announced that fewer enterprises would be allowed to operate during the Singapore switch to further minimize movement towards curbing the spread of COVID-19. Measures for direct adjustments to wages and wage leave may be more applicable to employers suffering from extremely poor or uncertain conditions of conduct that can be long-term. Consultation and agreement should be given to various stakeholders, such as trade unions and workers, before any of these measures are implemented. Employers are also advised to review and restore any adjustments made when their businesses are recovering. (i) Adjusting work arrangements without reducing wages, employers are encouraged to train and adjust the skills of their existing employees. Workers. may receive absentee pay subsidies for such trained workers. This, in turn, could help support employers, as this could lead to higher productivity, as workers are better equipped with the relevant skills and knowledge. Employers may also consider rotating or redeploying employees to alternative areas of work for the company or related corporations (Group) in order to meet any structural changes within the Group. Employers can exercise flexible work schedules and mechanisms that will enable companies to optimize the use of human resources when they go through cyclical troughs and peaks of labor demand, and this ensures workers have a stable monthly income during this period. Employers considering flexible working hours need the support of trade unions and workers and then turn to the Commissioner for Work. In addition to the exemption from overtime, the employer may apply for exemption from eameding provisions on rest and holidays, subject to measures to ensure the safety and health of employees. (ii) When adjusting the mechanisms of work to reduce wages, employers may consider other working arrangements, such as part-time work and the division of jobs. These measures can help in the distribution of workload between employees and employees can be rewarded accordingly. Employers may also consider reducing the working week, which directly means reducing working hours. Examples include a request for employees to take up to 50 per cent of their annual leave, to reduce the working week in such a way that it does not exceed three days per week and does not last more than 3 months in one case (which may be subject to review), and to pay affected workers at least 50 per cent of their wages during the shorter working week. Employers may also consider temporary redundancies when the workplace is closed for a certain period, while some administrative functions are still performed or applied generally throughout the company. Employers may ask employees to take up to 50 per cent of their earned annual leave, take a period of dismissal so that they do not exceed one month in any case, subject to review, and pay affected workers at least 50% of their wages during the period of dismissal. (iii) Direct adjustments to the wages of companies with flexible on-site wages may consider adjusting the various applicable wage components to further reduce labour costs, including annual pay, variable wage allowance, annual wage allowance, monthly variable component and other allowances. It is recognized that these are more serious cost-saving measures that may have to be implemented by companies suffering from extremely poor or uncertain business conditions, which are likely to be long-term. These measures are likely to be taken over the course of the period of time and has a serious impact on the livelihoods of workers. It is imperative that employers engage in and seek the advice and consent of trade unions and workers before the above measures are implemented. (iv) Non-wage companies may consider the issue of putting employees on leave without pay as a last resort. This is a drastic measure that should only be implemented if it helps the company survive, keep jobs and keep employees on a long journey when the economy improves. However, in the exercise of leave without pay, companies could consider or implement other measures and consult with their unions and employees and recognize the impact of this measure on ordinary employees. Senior management should also set an example by adopting earlier and/or deeper reductions as a cost-saving measure, and if business conditions required, companies could apply unpaid leave in conjunction with other savings measures. The MEMRR Advisory Report emphasizes that, if any of these measures are taken, employers should always exercise caution and fairness and pay special attention to the impact of any action on low-paid workers. However, if the above measures are insufficient and reduction is inevitable, companies should do so in a responsible and delicate manner. To achieve responsible reduction, key areas identified by the MEMRR Advisory Board include the use of objective criteria when assessing workers at the level of reduction, early notification to affected workers, provision of redundancy benefits, and simplification of re-employment procedures. MEMRR Advisory states that companies should notify MOM of the impending reduction as soon as possible if a decision has been made on this matter, and that as far as possible, operating companies should inform affected workers about the impending cuts before notification of the cuts are given. Please note that MEMRR consultations are not mandatory, but make strong recommendations for employers. Employers are advised to follow the MEMRR recommendations set at the relevant locations to the extent that it is practical to meet the needs of their business. In order to maintain a strong Singaporean core, the MOM has indicated that it can reduce work to pass the privileges of employers who unfairly cut Down Singaporeans. (h) Mandatory reduction notices from 1 April 2019, employers with 10 or more employees (at the time of receipt of the reduction notice) are required to notify the MOM that 5 or more employees have been reduced during any 6-month period. The notification must be submitted to the online and be in form provided on the MOM website for 5 business days after the employee is notified of his reduction. In this context, the reduction means the termination of an employee's contract at the initiative of the employer due to or any reorganization of the employer's profession, business, trade or work. This applies to permanent employees as well as contract workers with full contract terms of at least 6 months. Failure to notify within a specified time frame is considered a civil violation under the EA, and errant employers may be issued a notice of violation to pay an administrative fine. Please note that this section of the Labour Law Manual is a summary submitted for general information purposes to ensure that Singapore's employment laws are understood at the time of writing. It was not exhaustive or comprehensive, and reading the memorandum could not replace reading the text of the various statutes in order to fully understand the scope of the obligations owed. This guide should also not be relied upon as legal advice. Tips.

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