

# TRIPARTITE GUIDELINES CALL FOR 'RESPONSIBLE RETRENCHMENT'

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## **Summary**

The economic downturn has caused a rise in redundancy and retrenchment exercises. In order to help achieve responsible retrenchment, the Tripartite Guidelines on Managing Excess Manpower and Responsible Retrenchment (the “**Tripartite Guidelines**”) have been issued in May 2016.

## **Background**

The Singapore economy is open and exposed to volatile global trends. As companies adjust to new demands and aim towards higher productivity, there may be some impact on workers whose jobs may be affected in the process. Redundancies jumped from 12,930 in 2014 to 14,400 in 2015 - the highest since the 2009 economic downturn. In response, the tripartite partners - the Ministry of Manpower (“**MOM**”), the National Trades Union Congress (“**NTUC**”) and the Singapore National Employers Federation (“**SNEF**”) - strongly encourage companies to take a long term view of their manpower needs, including the need to maintain a strong Singaporean core, when managing these challenges. The Ministry of Manpower has been reiterating in recent months that it is watching closely the economic and labour market situation. In order to encourage maintaining a strong Singaporean core, MOM warned it will cut the work pass privileges of employers who unfairly retrench Singaporeans.

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# The Tripartite Guidelines – Responsible Retrenchment

The Tripartite Guidelines suggest that, as businesses adjust, they should consider alternative ways to manage their excess manpower - such as upskilling and redesigning jobs. However, if retrenchment is inevitable, companies should do so in a responsible and sensitive manner. In order to achieve responsible retrenchment, key areas that the Tripartite guidelines have identified include using objective criteria when evaluating employees for retrenchment, giving early notice to affected employees, provision of retrenchment benefits and re-employment facilitation.

## Objective criteria

It is emphasized that the selection of employees for retrenchment should be based on objective criteria such as the ability of the employee to contribute to the future business needs and the retrenchment exercise should be conducted fairly. Any discriminatory practice based on age, race, gender, religion, marital status and family responsibility or disability may result in the Company having their work pass privileges curtailed. For instance, MOM will investigate complaints of retrenchments that unfairly target Singaporeans and result in Singaporeans being replaced with foreigners.

## Early notice

If there is an impending layoff, employers should notify MOM and the Tripartite Alliance for Fair and Progressive Employment Practices (“**TAFEP**”) of an impending layoff early, so that they can work with employers to help the retrenched workers find alternative jobs and/or identify relevant training for enhanced employability. Companies should also communicate the intentions for retrenchment to their employees early and before public notice of retrenchment to keep the employees informed of the situation and the assistance which will be offered. The early notice allows affected employees to have time to prepare for and look for alternative arrangements, hence a longer notice period, to the extent practicable, will be helpful. Responsible retrenchment calls for employers to adopt a longer retrenchment notice period compared to the minimum requirement in the Employment Act (“**EA**”) for normal termination of employment contract, or to pay in lieu of such notice.

## Retrenchment benefits

The latest guidelines also improve the employee’s position in terms of receiving retrenchment benefits. For instance, it shortens the length of service for workers to be eligible for retrenchment benefits from three to two years. For those with less than two years’ service, employers could grant them an ex-gratia payment. The guidelines noted that the prevailing norm is to pay a retrenchment benefit varying between two weeks and one month salary per year of service. Employers should pay all salaries due and retrenchment benefits to the affected workers by the last day of work.

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## **Re-employment facilitation**

Responsible employers should go beyond advisory assistance and make practicable efforts to place affected employees in their next jobs. They could help affected employees look for alternative jobs in associate companies or other companies, or with the help of intermediaries such as employment/placement agencies. Where relevant, they should provide supporting documents such as referral letters, service records and past training certificates to facilitate the job search of affected employees.

## **Cost-saving measures to manage excess manpower**

Retrenchment may be avoided in certain circumstances. The Tripartite Guidelines provide some guidance on possible cost-saving measures to manage excess manpower. Proposed measures include redeploying workers to alternative areas of work within the organisation, a shorter workweek, temporary layoff, flexible work arrangements and a flexible wage system.

For example, there are guidelines to employers who implement a reduction in a workweek, that they should cap the reduced workweek to three days in a week - and the reduction in a workweek should not last more than three months. It is hoped that these cost-saving measures will help employers tide over the downturn while allowing their employees to retain their jobs.

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