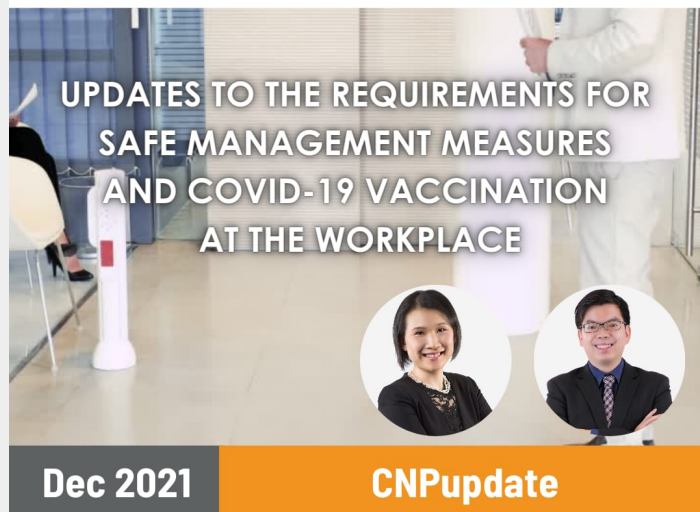


# UPDATES TO THE REQUIREMENTS FOR SAFE MANAGEMENT MEASURES AND COVID-19 VACCINATION AT THE WORKPLACE

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## UPDATES TO THE REQUIREMENTS FOR SAFE MANAGEMENT MEASURES AND COVID-19 VACCINATION AT THE WORKPLACE

On 23 October 2021, the tripartite partners (comprising the Ministry of Manpower, National Trades Union Congress and Singapore National Employers Federation) issued updated advisories on the requirements for safe management measures at the workplace (the “**Safe Management Measures**”) and workforce vaccination measures. Employers are required to immediately comply with the updated requirements for Safe Management Measures, whereas the updated workforce vaccination measures will only take effect from 1 January 2022.

This article is updated to reflect changes to the Safe Management Measure and workforce vaccination measures taking place in January 2022.

### A. Safe Management Measures

#### (i) Homeworking remains as the default work arrangement

Employers must ensure that employees whose job functions can be performed from home are required to work from home.

From 1 January 2022, no more than 50% of employees who are able to work from home can be at the workplace at any point in time.

In addition to the above, with effect from 1 January 2022, only the following employees are allowed to return to the workplace:

- Employees who are fully vaccinated under the National Vaccination Programme or WHO Emergency Use Listing, including having completed their respective post-vaccination duration for the vaccine to be fully effective;

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- Employees who have recovered from COVID-19 within the past 180 days; and
- From 1 January 2022 to 14 January 2022, employees who have tested negative for COVID-19 via a Pre-Event Test (“PET”) at a Ministry of Health-approved COVID-19 test provider. The PET result (which is valid for 24 hours) must be valid for the entire duration that the employee is required to be present at the workplace. For instance, if the employee is required to work overtime at the workplace but the PET result is not valid for the duration of the overtime, the employee will be required to undergo a second PET and obtain a negative result that is valid for such period of overtime. Employees who are partially vaccinated (i.e. employees who have taken at least 1 dose of vaccine but have not been fully vaccinated) may continue to enter the workplace with a negative PET result until 31 January 2022.

(ii) Work arrangements for employees at the workplace

Employers are encouraged to implement staggered start times, flexible workplace hours and staggered break hours for employees at the workplace. If it is not possible to implement staggered working and break hours due to operational reasons, employers must implement other systemic arrangements to reduce the congregation of employees at common spaces.

Each employee should not work at more than one worksite. If cross-deployment cannot be avoided, additional safeguards must be taken to minimise the risk of cross infection. For example, employers should put in place systems to ensure that there is no direct contact between the cross-deployed employees. Employers may organize work-related events (including meetings) at the workplace, which shall be subject to the following requirements:

- The number of persons per event (i.e. everyone who will be in the event venue at any point in time) must be capped at 50 persons. Employers may organize work-related events for more than 50 persons provided that the participants are split into multiple groups of not more than 50 persons, with each group in different locations;
- Participants must maintain at least 1 metre safe distancing between each other;
- Meals should not be the main feature of the event and food and drinks should only be served if incidental to the event (e.g. if the meeting extends over lunchtime) and individually with the participants seated while consuming food and drinks. Participants should also minimise the time that they are unmasked while eating; and
- Work-related events that are held at third-party venues will be subject to such additional safe management policies that may be implemented by the premises’ respective owners, including vaccination-differentiated Safe Management Measures.

From 3 January 2022, employers may organize work-related events for more than 50 and up to 1,000 participants, which shall be subject to the following requirements:

- The event organizer must notify the authorities before the event to facilitate enforcement checks;
- The event must not be predominantly recreational or social in nature (e.g. Dinner & Dance,

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networking events and team building activities are still non-permissible);

- Participants must maintain at least 1 metre safe distancing between each other and must be in zones of up to 100 participants per zone, with 2 metre safe distancing between each zone;
- There must not be any mask-off activities (e.g. consumption of food and beverages) during the event;
- The event must be static and participants must predominantly be seated or standing in a fixed position; and
- Every participant must be fully vaccinated, have recovered from COVID-19 within the past 180 days or medically ineligible for vaccination under the National Vaccination Programme.

(iii) Requirement for social distancing

Employers are required to ensure clear physical spacing of at least 1 metre between all persons at the workplace at all times and to demarcate such distances using visual indicators or through physical means, such as setting up barriers between workstations and relocating workstations and meeting room seats. Social gatherings at the workplace (including team bonding events) are not allowed and employees should have their meal breaks at the workplace individually. Whilst the advisory provides that social gathering at the workplace is prohibited, there are no clear guidelines on whether employers are permitted to hold small scale team bonding events outside of the workplace.

(iv) Requirement to wear masks

Employers must ensure that all persons at the workplace wear a mask and other necessary personal protective equipment at all times, except during activities that require masks to be removed (i.e. any activity that requires that no mask may be worn, or that the mask must be removed in order that other equipment may be worn or used, to carry out that activity). Masks will have to be worn immediately after such activity is completed.

Employers should consider improving the working environment for employees to enable them to sustain wearing masks at the workplace at all times.

(V) Other measures to take care of the workplace

Employers must use the SafeEntry visitor management system to record the entry of all persons (including employees and visitors) entering the workplace. All employees and visitors should check-in and check-out of workplaces using SafeEntry (i.e. using the TraceTogether app or token).

Employers should try to reduce the occurrences of, or need for, common physical touchpoints in the workplace through the use of contactless access controls and contactless delivery modes for suppliers or customers.

Employers should encourage their employees to observe good personal hygiene by washing or sanitizing their hands regularly.

Employers must ensure regular cleaning of common spaces and equipment, particularly during shift or split team changeovers, in accordance with the sanitation and hygiene advisories disseminated by the National Environmental Agency ("NEA"). In addition to the foregoing, employers should provide cleaning agents at all toilets and hand-wash stations and install or provide disinfecting agents at all human traffic stoppage points (e.g. entrances, reception areas, security booths and lift lobbies), meeting rooms and other common

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spaces (e.g. pantries or canteens).

Employers should try to increase ventilation in accordance with the advisories disseminated by the NEA or Building and Construction Authority (e.g. increasing mechanical airflow and opening windows or doors). In addition, employers are encouraged to measure their carbon dioxide content within the workplace to keep within NEA's guidelines of 800 parts per million.

(vi) Measures to take if an employee is unwell

Employers and employees should adhere to the Health Protocols disseminated by the Ministry of Health ("MOH") and the advisory on work and leave arrangements for employees who have tested positive for COVID-19 but are mildly symptomatic or are physically well. In particular:

- A) If an employee is unwell, the employee should visit a Swab And Send Home clinic via private transport for a doctor to assess and advise on the next steps;
- B) If an employee is well but has tested positive, the employee should self-isolate at home for 72 hours. Employees who have tested positive should not report to the workplace. Employees who are symptomatic should seeksee a doctor;
- C) After 72 hours of self-isolation, the employee should take a self-Antigen Rapid Test ("ART") and may end his isolation when his ART result is negative. If the ART result is positive, the employee should continue to self-isolate and take another ART every 24 hours. The employee can end the self-isolation once the self-ART result is negative or on Day 10 if vaccinated or Day 14 if unvaccinated (where Day 1 is the date of the first positive ART) ;
- D) Employees who are physically well should be allowed to work from home if they are able to do so. If working from home is not possible, employers should treat the period of absence as paid sick leave without requiring a medical certificate. For employees with mild symptoms and a medical certificate is issued by a doctor, employers should similarly treat the period of absence as paid sick leave. Employees should not be asked to take-no pay leave for the period of self-isolation; and
- If an employee is identified by the Ministry of Health as a close contact of a COVID-19 case, the employee should take an ART and submit the results. Thereafter, the employee should observe a 7-day monitoring period, during which the employee can only leave the house on any particular day after testing negative via an ART self-test on the said day. Those who have a positive ART result should follow the steps listed in sub-paragraphs (b) to (d) above.

Employers should take the following steps upon being notified that an employee has been infected with COVID-19:

- Establish if any colleagues had interacted with the employee recently;
- Conduct ART on colleagues who had interacted with the employee and follow the Health Protocols disseminated by MOH. There is no need to send them home if they are tested negative;
- Clean the area where the employee was working in accordance with NEA's advisory; and
- Review the implementation of Safe Management Measures.

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#### (vii) Implementation of Safe Management Measures

Employers must continue to implement the Safe Management Measures, in a sustainable manner and for as long as may be necessary, including the following:

- Implementing a detailed monitoring plan to ensure compliance with the Safe Management Measures and timely resolution of outstanding issues;
- Communicating and explaining the implemented measures to employees, especially any measures related to working from home; and
- Putting up signs to remind employees and visitors to observe the implemented measures.

Unionised companies should also note that they are required to engage their unions on any measures that they intend to implement.

Employers must also continue to appoint at least one Safe Management Officer (the “SMO”), who will assist in the implementation, coordination and monitoring of the Safe Management Measures at the workplace.

The duties of the SMO include:

- Coordinating the implementation of the Safe Management Measures, including identifying relevant risks, recommending and assisting in implementing measures to mitigate the risks, and communicating the measures to all employees in the workplace;
- Conducting inspections and checks to ensure compliance with the Safe Management Measures at all times. Any non-compliance identified should be reported and documented;
- Remedying any non-compliance through immediate action; and
- Keeping records of inspections, checks and correction actions, which should be made available upon request by a government inspector.

### **B. Workforce Vaccination Measures**

#### (i) Vaccination is not mandatory but strongly encouraged

Although vaccination is not currently mandated in Singapore, individuals are strongly encouraged to vaccinate. In this regard, employers may impose vaccination as a requirement for new hires for purposes of planning deployment at the workplace.

With effect from 1 January 2022, employees who are unvaccinated are generally not allowed to return to the workplace. Employees who are not fully vaccinated are allowed to return to the workplace from 1 January 2022 to 14 January 2022 if they have a negative ART result administered via a PET at a MOH-approved COVID-19 test provider. The PET result (which is valid for 24 hours) must be valid for the duration that the employee is required to be present at the workplace. Employees who are partially vaccinated may continue to rely on a negative PET result to return to the workplace until 31 January 2022. Please refer to paragraph (i) of Section A of this article for further details on the requirements for employees to return to the workplace from 1 January 2022. Unvaccinated but medical eligible employees have to pay for the costs of the PET and show the PET results to their employers when reporting to the workplace.

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Employers are expected to facilitate vaccination by granting paid time-off to employees for vaccination or vaccination booster, including any mandatory observation period post vaccination if the vaccinations are done during working hours. Employers should also grant additional paid-sick leave for an employee to rest in the event that the employee experiences any vaccine-related adverse reaction.

#### (ii) Work arrangements for unvaccinated employees

Employers are allowed to implement different measures for employees who are certified to be medically ineligible for vaccination under the National Vaccination Programme as compared to employees who are eligible for vaccination but choose not to be vaccinated.

For employees who are certified to be medically ineligible for vaccination under the National Vaccination Programme, employers should consider:

- Allowing them to work from home if they are able to do so. However, their absence from the workplace should not have any impact on the assessment of their performance; or
- Redeploying them to suitable roles which can be performed from home.

Employers are also strongly encouraged to give special consideration to the needs and concerns of pregnant employees and to provide them with similar support measures, i.e. allowing pregnant employees to work from home if they are able to do so or redeploying them to suitable roles which can be performed from home. Employers should not terminate the employment of medically eligible but unvaccinated pregnant employees and should also consider extending no-pay leave to such employees until after they have delivered.

For all other unvaccinated employees, employers may allow them to work from home if such working arrangements sufficiently meet their operational and business needs. From 15 January 2022, for employees whose work cannot be performed from home, employers may:

- Redeploy them to suitable jobs which can be done from home;
- Place them on no-pay leave based on mutually agreeable terms; or
- As a last resort, terminate their employment with notice in accordance with the terms set out in their employment contract and applicable laws.

While the Advisory provides that an employer may terminate the employment of an unvaccinated employee with notice in accordance with the terms set out in their employment contract, including the provision of notice, it would appear that this will only apply to an unvaccinated employee whose work cannot be performed from home, in order to avoid any allegations of wrongful dismissal.

#### (iii) Implementation of Workforce Vaccination Measures

Employers may ask employees to show their vaccination status through the TraceTogether app and token, HealthHub app or the original physical vaccination card. Employees who refuse to disclose their vaccination status may be treated as unvaccinated for the purposes of access to the workplace, implementing Workforce Vaccination Measures and the bearing of additional COVID-19 related costs incurred over and above those for vaccinated employees (e.g. PET and Stay-Home Notice accommodation).

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Employers should comply with their obligations under the Personal Data Protection Act and any applicable data protection laws if they wish to collect, use and disclose any information on their employees' vaccination status that may also contain personal data (i.e. any individual who can be identified from that data alone or with other information to which the employer has or is likely to have access). Such personal information should be kept securely, and used only for the purposes of determining whether an employee may have access to the workplace, the implementation of Workforce Vaccination Measures and determining any additional COVID-19 related costs, and not for any other purposes.

Employers may also exclude unvaccinated employees from medical benefits associated with COVID-19, including COVID-19 related insurance coverage.

Notwithstanding the above, employers are strongly encouraged to give special consideration to the needs and concerns of pregnant employees, and to come to reasonable arrangements on cost-sharing of PET for pregnant employees who are required to return to the workplace.

Non-employees who work at the same premises as the employees or who regularly work at the same premises will be required to comply with the Workforce Vaccination Measures but visitors will not be subjected to the Workforce Vaccination Measures if their duration of stay at the workplace is transient in nature. However, visitors to certain workplaces are subjected to prevailing Vaccination-Differentiated Safe Management Measures for the community at large.

### **C. Testing requirements prior to reporting at the workplace**

Employers are required to comply with any prevailing regulations on the testing of employees, including the requirements of the Vaccinate or Regular Test ("VoRT") regime, which is only in effect till 31 December 2021, and the Fast and Easy Testing Rostered Routine Testing ("FET RRT") regime. For vaccinated employees who are not subjected to any regulatory requirements for testing, they are encouraged to self-test weekly via ART if they are required to return to the workplace.

#### **(i) Vaccinate or Regular Test regime**

The requirements of the VoRT regime vary depending on sector. In general, under the VoRT regime, employees who are unvaccinated must undergo regular testing. The VoRT regime will apply concurrently with any existing FET RRT regime that employees are currently subject to, and any ART undergone under the FET RRT regime can be recognized as counting towards the employees' testing requirements under the VoRT regime.

#### **(ii) Fast and Easy Testing Rostered Routine Testing regime**

The FET RRT regime applies to the following employees:

- All workers from the construction, marine and process sectors (unless working in company office premises) and personnel who go into the work sites;
- All workers from the manufacturing and services sectors residing in purpose-built dormitories, factory-converted dormitories, decant sites, Temporary Occupational Licence Quarters and Construction Temporary Quarters;
- Workers who are part of dormitory operations staff but do not reside in a dormitory;

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- Recovered workers who have passed 270 days from their date of symptoms onset or detection of infection; and
- Newly arrived recovered workers.

With effect from 1 January 2022, the FET RRT regime only applies to employees residing in dormitories and employees working in the construction, marine shipyard and process sectors.

In general, under the FET RRT regime, vaccinated employees are required to do supervised ART every 3 or 7 days, whereas unvaccinated employees are required to do supervised ART every 3 days. Local employees (i.e. Singapore Citizens and Permanent Residents) are required to submit their ART results via the Swab Registration System online portal and foreign employees are required to submit their ART results via the FWMOMCare mobile application.

#### **D. Closing thoughts**

The updated requirements for Safe Management Measures and workforce vaccination measures are intended to mitigate the risk of COVID-19 transmission at the workplace. The easing of certain requirements and measures could be seen as being commensurate with the relaxation of the community safe management measures in Singapore. However, employers should be mindful that the updated requirements for Safe Management Measures are meant for general workplace setting and specific workplaces may be required to fulfil additional sector-specific requirements.

Employers should continue to provide a safe working environment for employees, as everyone will need to play their part and remain vigilant as Singapore continues to adapt to the evolving COVID-19 situation. Employers should also bear in mind that failure to comply with the Safe Management Measures is punishable with a fine of up to S\$10,000 or imprisonment up to 6 months, or both, and repeated non-compliance is punishable with a fine of up to S\$20,000 or imprisonment up to 12 months, or both.

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