

Employment

# New Tripartite Guidelines on Flexible Work Arrangement Requests: Implementation, Implications, and Practical Tips

## Introduction

Following the widespread adoption of telecommuting and staggered working hours amidst the COVID-19 pandemic, the job market in Singapore has seen an increasing demand for flexible work arrangements ("**FWAs**"). This demand is expected to grow not just in light of Singapore's rapidly ageing population, as more employees will need to balance work with caregiving responsibilities in order to remain in the workforce — but also as employees and employers both re-examine the fundamental premise and very nature of work itself. This is particularly evident after the impact of COVID-era restrictions which recast the entire relationship between employers and employees, from where and when work would be performed, to work would be allocated, performed and remunerated.

In a much-needed step to clarify the new normal, on 16 April 2024, the Ministry of Manpower ("**MOM**") launched the [Tripartite Guidelines on Flexible Work Arrangement \("\*\*FWA\*\*"\) Requests \("\*\*FWA Guidelines\*\*"\)](#). The FWA Guidelines establish (i) how formal FWA requests should be made; (ii) how employers should consider such requests in a proper manner; and (iii) the requirement to communicate decisions on such requests in a transparent and timely manner.

Essentially, the FWA Guidelines aim to normalise FWAs in the workplace by putting in place formalised and clear processes for employees to request for them. Similar to legislation in countries such as Australia and New Zealand, they do not guide the *outcome* of FWA requests – employers retain the prerogative to decide on work arrangements, but are now obliged to properly consider the requests and base acceptances or rejections on reasonable business grounds.

The FWA Guidelines follow on from the 10 recommendations made by the Tripartite Workgroup on the Tripartite Guidelines on Flexible Work Arrangement Requests ("**Tripartite Workgroup**") in the report titled "[Maximising Our Workers' Potential and Business Productivity through Workplace Flexibility](#)" ("**Report**"), all of which were accepted by the Government.

The FWA Guidelines will come into effect on **1 December 2024** and will apply to all employers. In this Update, we discuss the implementation of the FWA Guidelines, the implications for employers, and practical tips for employers to consider ahead of time.

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## Implementation of FWA Guidelines

### Which requests do the FWA Guidelines apply to?

The FWA Guidelines apply to formal FWA requests made by employees that have completed their probation. These formal requests generally involve long-term arrangements that require planning to ensure business continuity, rather than ad hoc arrangements for a particular day.

A formal request must be made in writing and include minimally the following information ("**Requirements**"):

- (a) date of the request;
- (b) reason for the request;
- (c) requested start date (and end date, where relevant); and
- (d) requested arrangement, including its expected frequency and duration. This may involve one or more of the following types of FWAs:
  - **flexi-place:** working from different locations, including from home;
  - **flexi-time:** working at different timings with no changes to total working hours and workload; and
  - **flexi-load:** different workloads with commensurate remuneration, e.g. job-sharing.

### What is the application and approval procedure?

| Steps                                   | Action Required   |
|---|---|
| <b>Submission of formal FWA request</b> | <p><b>Where no procedure is in place:</b> Employees should adhere to the Requirements set out above. The FWA Guidelines note that a text message may qualify as a formal FWA request if all the Requirements are met. A suggested template is set out in Annex A of the FWA Guidelines.</p> <p><b>Where there is an established procedure:</b> An employee should adhere to the employer's procedure and requirements for the submission of FWA requests. This may include additional stipulations beyond the Requirements, such as using a certain template, submitting via a portal, or including further information.</p> <p>Employers are encouraged to continue any existing practices if they work well for both employers and employees.</p> |
| <b>Consideration of request</b>         | <p>In considering the request, employers should:</p> <ul style="list-style-type: none"> <li>• understand and properly consider the underlying reason for the employee's FWA request;</li> <li>• discuss the request with the employee in an open and constructive manner with the aim of reaching mutual agreement;</li> <li>• focus on factors related to the employee's job, and any impact on the business or the employee's job performance; and</li> </ul>   |

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| Steps  | Action Required  |
|--|--|
|  | <ul style="list-style-type: none"> <li>avoid rejecting the request on grounds that are not directly linked to business outcomes, such as company tradition or a preference to have direct sight of employees.</li> </ul>   |
| <b>Notification of decision</b>                    | <p>Employers should notify their employee of their decision within <b>two months</b> after the request was submitted. A suggested template is set out in Annex B of the FWA Guidelines.</p> <p>If the request is rejected, employers should include the reason/s for rejection, and are encouraged to discuss viable alternatives with the employee.</p>   |
| <b>In the event of a dispute or non-compliance</b> | <p>Employers and employees are encouraged to address any disagreements through the company's internal grievance-handling procedure as far as possible. Unionised employees may also seek assistance and advice from their unions.</p> <p>Where employers do not adhere to the FWA Guidelines, employees may seek assistance from the Tripartite Alliance for Fair and Progressive Employment Practices ("<b>TAFEP</b>") or their unions. MOM and TAFEP will refer to the FWA Guidelines in supporting the adoption of, and handling cases related to, FWAs.</p> <p><u><a href="#">In response to media queries</a></u>, MOM has stated that where employers are recalcitrant or wilfully non-compliant, MOM "may issue a warning and require them to attend corrective workshops."</p> |

### Implications for Employers

#### Are these FWA Guidelines "good to know" only or must we implement them?

MOM has made it clear that Tripartite guidelines such as these FWA Guidelines supplement the law. As such, MOM can and will take action against non-compliance with guidelines.

#### How should we respond to FWA requests?

Employers should comply with the FWA Guidelines when responding to FWA requests, and must consider such requests properly, focusing on factors related to the employee's job as well as how the requested FWA may affect the business and the employee's performance of the job. In light of the shifting workplace norms that place greater emphasis on flexibility, the FWA Guidelines also encourage employers and employees to discuss FWA requests in an "open and constructive manner". Nonetheless, the Report recognised that to be sustainable, FWAs must make business sense by enhancing or maintaining business productivity and operations, and employers continue to have the right to determine working arrangements in accordance with their business needs.

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#### Must we proactively offer FWA arrangements to employees?

No. However, the FWA Guidelines encourage employers to offer FWAs on the basis that there are benefits to FWAs such as being better able to attract and retain talent.

#### Can the use of FWAs be taken into consideration for performance appraisals?

The short answer is that this depends on how and how much the FWA alters the existing work scope, responsibilities, deliverables and remuneration of the employee. A good starting point would be to remember that the [Tripartite Guidelines on Fair Employment Practices](#) apply to all employees, including those who request and use FWAs. As such, employers should ensure that employees on a FWA remain subject to fair and objective performance appraisal systems with measurable standards for evaluating job performance.

### Practical Tips

Administratively, employers would do well to set up a clear procedure, adapted to their company, for the application and approval of FWA requests. For instance, it may be preferable to stipulate that requests should be made by way of email rather than text messages, and in a certain prescribed format. This is to reduce the additional work created by free-form ad-hoc requests made by employees to their managers or supervisors. Consequently, employers may wish to create an application portal to reduce the administrative load on its Human Resources (HR) team by harmonising such FWA requests.

Substantively, we strongly recommend that employers develop their own FWA policies, processes and frameworks sooner rather than waiting till 1 December 2024 when the FWA Guidelines formally come into force. This will allow employers to fine-tune their policies, processes and documentation before the implementation date where it can be expected that employers will start receiving these FWA requests formally. Being prepared earlier would serve multiple purposes:

- (a) **Creating awareness amongst employees** in understanding whether FWAs are suitable for them. Such information may include the types of FWAs available, eligibility guidelines, and expectations on their usage.
- (b) **Educating and training managers and supervisors** in setting out considerations specific to the differing roles under their supervision, as well as how to seek guidance and advice where necessary.
- (c) **Assisting both supervisors and employees** in reaching a mutual understanding of expectations, performance indicators, and how the success of the FWA will be monitored.

The Employment team at Rajah & Tann stands ready to assist with your business needs in this area.

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## Concluding Remarks

The FWA Guidelines are the latest in a series of steps to foster an increased adoption of FWAs in Singapore as a means of retaining employees not only within a company, but within the workforce. It replaces the 2014 [Tripartite Advisory on Flexible Work Arrangements](#), as well as the [Tripartite Standard on Flexible Work Arrangements](#).

Ahead of the FWA Guidelines coming into effect on 1 December 2024, employers should start developing and establishing processes for the submission and consideration of formal FWA requests. We also strongly recommend that employers put in place a clear, well-drafted FWA policy for the benefit of supervisors, employees, and your company as a whole, as well as to protect the Company against disputes that will invariably arise once the FWA Guidelines come online.

The leading partners of Rajah & Tann Singapore's top-ranked [Employment Practice](#) are well-placed to assist with this and any other queries you may have regarding on the FWA Guidelines. For more information and advice tailored to your individual circumstances, please contact our partners below.

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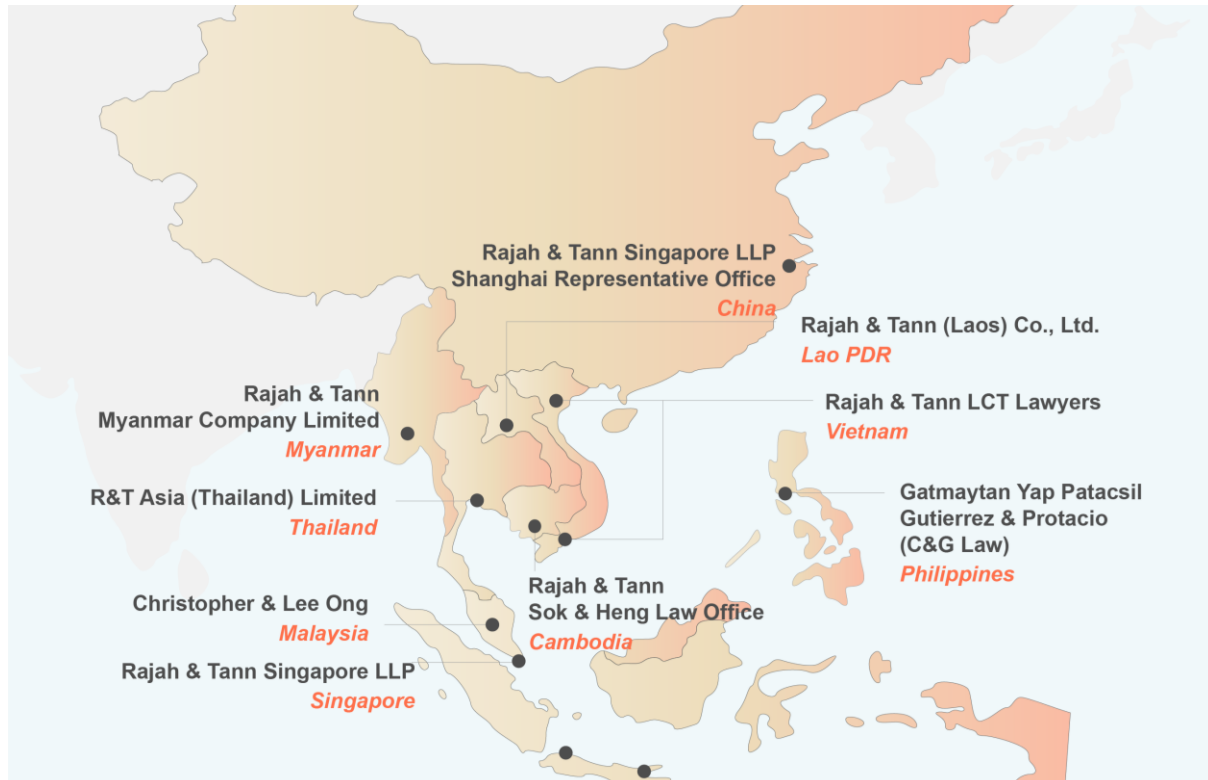
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