

APAC COVID-19 FAQ

EDITION II – 14 APRIL 2020



Employment Law Expertise Provided
by Asia Pacific Members of the



INTRODUCTION

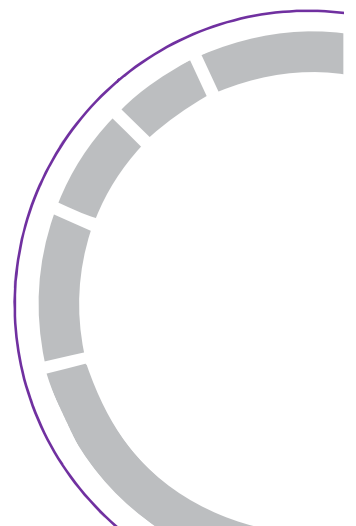
In the recent weeks, the Covid-19 situation has brought about great uncertainty for the world. Employers have not been spared. It can be challenging to wade through the ever changing myriad of notices, advisories and guidelines issued by the different governments.

To assist our clients, the Employment Law Alliance's APAC member firms have put together a set of FAQs to deal with some of the more common questions we have been asked relating to the new policies / advisories which have been issued in our respective jurisdictions as well as cost cutting measures which can be implemented to manage the cost of doing business.

The first edition of this paper was published on 6 April 2020 and can be found [here](#). As the situation is constantly evolving, we are providing weekly updates to our readers. This is the second edition and includes updates from Hong Kong, Japan and Taiwan.

Readers should take note that this information is accurate as at 9 April 2020. We encourage readers to keep abreast of developments in the countries of concern to them on a daily basis. Should you have any queries, please feel free to reach out to the contributors individually.

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HONG KONG

Q: Are there any government directions to shut down business (“Shut Down directives”)?

A: The following premises have been ordered to be closed until 23 April 2020:

- (a) Amusement game centres
- (b) Bathhouses
- (c) Fitness centres
- (d) Places of amusement
- (e) Places of public entertainment
- (f) Premises that are maintained or intended to be maintained for hire for holding social gatherings (commonly known as party room)
- (g) beauty parlours
- (h) establishments (commonly known as club or nightclub) that are open late into the night, usually for drinking, and dancing or other entertainment
- (i) karaoke establishments
- (j) mahjong-tin kau premises
- (k) massage establishments

Separately, effective for 14 days from 6pm on 3 April 2020 (i.e. till 5.59pm on 17 April), any premises that is exclusively or mainly used for the sale or supply of intoxicating liquors for consumption in that premises must be closed. Such premises include bars, pubs, any part of a catering business premise / any area in a club house that is exclusively or mainly used for such sale or supply of intoxicating liquors for consumption in that part / area.

The Government has further issued directions for catering businesses, requiring them to, inter alia, only allow their number of customers to not exceed 50% of their normal seating capacity at any one time, and not allow more than 4 persons to be seated together at one table.

Q: Are there any schemes to help businesses cope with the additional staff related costs resulting from the Covid-19 situation?

A:

1. To enhance Hong Kong’s ongoing work in the fight against the novel coronavirus infection and to provide support and assistance to industries and members of the public affected by the epidemic, the Government has set up a HK\$30 billion Anti-epidemic Fund (the “Fund”).

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The Fund will provide additional resources to strengthen the territorial-wide anti-epidemic work and will render support to the affected industries and employees. The Hong Kong Government announced a second round of the Fund on 8 April 2020.

The first round of the Fund covers the following sectors: property management, construction, retail, food and catering, transport, convention & exhibition, fisheries, arts and culture, licensed guesthouses and travel agents. Not all of the subsidy schemes under the first round of the Fund are directed at employment-related issues, but some do, for example, the Anti-epidemic Support Scheme for Property Management Sector aims to provide an “Anti-epidemic Cleansing Subsidy” to property management companies and owners’ organizations in private residential and composite buildings, and subsidises them to provide the “Anti-epidemic Hardship Allowance” to front-line property management workers (i.e. cleaning and security workers). Each worker will be given a monthly allowance of HK\$1,000 for four months, subject to a cap of six headcounts per building block.

On 8 April 2020, the Hong Kong Government announced a second round of the Fund in light of COVID-19. One of the measures include introducing a HK\$80 billion Employment Support Scheme (“ESS”).

In relation to the ESS:

The subsidy to be offered under the ESS is calculated based on 50% of the monthly salary, which is capped at HK\$18,000 (i.e. the maximum subsidy amount will be HK\$9,000), for a period of six months.

As condition to application for the ESS, employers have to undertake that they cannot implement redundancy.

In terms of eligibility, all employers who have been making Mandatory Provident Fund (MPF) contributions for employees are eligible.

The ESS subsidy will be disbursed to employers in two payments, with the first not later than June 2020.

Our Chief Executive has said that 100 per cent of the wage subsidies provided by the Government have to be spent on wages. The employer cannot not deploy the money for

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other purposes and the Government will put in place very robust auditing after the event because they don't want to have detailed vetting before paying out.

It is otherwise hoped that more details and clarity regarding the application and eligibility criteria for ESS will be provided in the near future.

Separately, the deadline for payment of tax for year of assessment 2018/19 that will be falling due will be automatically extended for three months, with details to be announced by the Inland Revenue Department.

2. Separately, the Hong Kong Commerce & Economic Development Bureau's SME Financing Guarantee Scheme (the "Scheme") is planned to be rolled out sometime in April. The Scheme aims to alleviate the burden of paying employee wages and rents by small and medium-sized enterprises which are suffering from reduced income, thereby help minimise enterprise shutting down and layoffs. The Hong Kong Government will provide a 100% guarantee for approved loans taken out by eligible enterprises, in hopes that this will greatly enhance the chances for businesses in securing loans. The maximum amount of loan per enterprise is up to the total amount of employee wages and rents for six months per enterprise, or HK\$2 million, whichever is the lower. Further details are expected to be announced nearer the time of the commencement of the Scheme.

In terms of eligibility, it is said that all Hong Kong enterprises who have been operating and holding a valid Business Registration Certificate for at least three months by the end of December 2019 can apply to the Scheme. The loan applicant needs to provide proofs that they have suffered at least a 30 per cent decline in sales turnover in any month since February 2020 compared with the monthly average of any quarter in 2019. The current definition of "small-medium enterprises" used by the Hong Kong SAR Government is any manufacturing business which employs fewer than 100 persons in Hong Kong, or any non-manufacturing business which employs fewer than 50 persons in Hong Kong. It is at present unclear whether the definition of SMEs for eligibility to apply for the Scheme will follow the aforementioned definition.

The maximum repayment period is three years from the first drawdown of the facility. To lessen the immediate repayment burden of enterprises, an option for principal moratorium will be provided under which loan applicants will only be required to pay

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interest in the first six months. Separately, an interest rate of the Hong Kong Prime Rate minus 2.5 per cent per annum (or equivalent). The guarantee fee will be waived.

3. Although not a subsidy scheme, pre-dating the COVID-19 outbreak, the Hong Kong Monetary Authority established the “Banking Sector SME Lending Coordination Mechanism” in October 2019 to provide a common platform for the banking industry to formulate solutions to support SMEs, including relieving SMEs’ cash-flow pressure via lending solutions. Since its establishment, Hong Kong’s banking sector has introduced several rounds of measures to help corporate and retail customers. Nearly 9 000 applications from SMEs involving principal repayment holidays, loan extensions and relief loans have been approved thus far, involving over HK\$57 billion. This has helped reduce the cash-flow pressure on customers and lessen the impact of the outbreak of COVID-19 on the local economy.
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JAPAN

Q: Are there any government directions to shut down business (“Shut Down directives”)?

A:

- A state of emergency was declared by Prime Minister Abe for Tokyo, Kanagawa, Chiba, Saitama, Osaka, Hyogo and Fukuoka (the “Area”) on April 7.
- The governors of the Area can, for the period up to May 6, request the restriction of use or temporary closure of places where many people gather such as schools, social welfare facilities, theaters and sport stadiums (Act on Special Measures against New Types of Influenza, Article 45).
- Government and local government are currently considering the scope of such request.

Q: Are there any government directions on policies employers must adopt to ensure no close physical interaction between persons at the work place (“Distancing Policies”)?

A:

- Though it is not a legal requirement, the government requests people at the workplace to keep a distance of at least one meter away from other people; and when having conversations with others, two meters away.

Q: Implications such Distancing Policies have in managing employees

A:

- Companies trying to secure distancing policies between employees are increasing, e.g., by promoting teleworking and allowing employees to rotate to go into the office.
- If an employer fails to take measures for distancing policies, such employer might be liable for breach of the obligation of consideration for the safety of employees.



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TAIWAN

Q: Are there any government directions to shut down business (“Shut Down directives”)

A: To prevent infection spreading from group gatherings, the Central Epidemic Command Center has ordered on April 9 for all host/hostess clubs and dance halls to suspend business operations and called on those businesses to comply with the disease prevention policies.

Q: How should employers implement the cost cutting measures?

A:

1. Per the announcements from the Ministry of Labor and the Special Regulations on the Prevention of Serious Infectious Pneumonia and the Provision of Relief, for employees unable to work due to being placed on 14-day quarantine leave for no fault of the employer, the leave may be unpaid. Also, as mentioned above, businesses that encounter difficulties in their business operations as a result of COVID-19 may be entitled to government relief. (See advice under the question “Are there any schemes to help businesses cope with the additional staff related costs resulting from the Covid-19 situation?” below.)
2. The Continued Operations Guidelines also mention the use of available government relief, setup substitution mechanisms for decision making and key skills, and establish proposals for working remotely.
3. The Ministry of Labor has also published a circular that states employers may temporarily reduce working hours pursuant to relevant regulation with the consent of the employees if the business operations have been affected by COVID-19, while reporting such a decision to the local labor competent authority where the place of business is located. Please note that the employer may not refuse to provide work to those infected or suspected to be infected, and it must ensure that those employees will not be discriminated against.
4. If the employer arranges for reduction of work hours per the above, or if the employer is in an industry that has been recognized by the central competent authority for the relevant industry as affected by COVID-19, it may apply for a postponement of payment for 6 months of contributions to labor insurance, employment insurance and employee pensions from February to July 2020 so as to avoid late penalties.

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5. Arrangements with employees on rest dates or different work locations shall be compliant with the rules on adjusting annual leave (Article 38, Paragraph 2 of the Labor Standards Act) and change of work locations (Article 10-1 of the Labor Standards Act).

Q: Are there any schemes to help businesses cope with the additional staff related costs resulting from the Covid-19 situation?

A: Yes.

As mentioned, according to the Special Regulations on the Prevention of Serious Infectious Pneumonia and the Provision of Relief Stimulus, the competent authorities for the relevant industries are responsible for providing relief, stipends and stimulus measures for those businesses encountering operational difficulties as a result of COVID-19, as well as the employees of those businesses. The following relief measures have been announced in Taiwan so far:

1. While employees who are unable to work due to the forced 14-day quarantine does not have to be paid, if the employer voluntarily pays the wages of those employees on quarantine leave, the employer may deduct 200% of that amount from taxable income.
2. Several other plans are in motion for the end of March. The Occupational Safety and Health Administration under the Ministry of Labor has announced that the following aid will be provided to eligible businesses: i) Up to NT\$100,000 for purchasing machinery and safety equipment, ii) up to NT\$300,000 for helping the physical and mental health of employees, and iii) up to NT\$2.5 million for improving production and safety equipment.
3. The original “Aid for Promoting Work-Life Balance” is expanded with greater amounts of aid and items covered. Employers may now have up to September 2020 to apply.
4. As mentioned above, affected employers (either has arranged for reduced working hours or is in industry officially recognized as affected by COVID-19) may apply for postponement on the February to July 2020 contributions of labor insurance, employment insurance and employee pensions from April 1 to September 30.

The latest details may be found at the Ministry of Labor’s dedicated page on responding to the COVID-19 epidemic <https://www.wda.gov.tw/cp.aspx?n=3BC298262CECC04E>

TAIWAN



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