



APAC COVID-19 FAQ

EDITION VII – 15 MAY 2020



Employment Law Expertise Provided by
Asia Pacific Members of the



INTRODUCTION

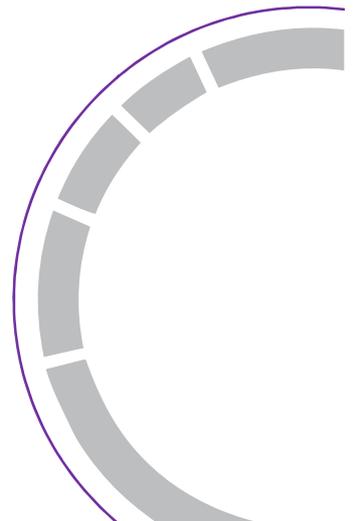
In the recent weeks, the Covid-19 situation has brought about great uncertainty for the world. Employers have not been spared. It can be challenging to wade through the ever changing myriad of notices, advisories and guidelines issued by the different governments.

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 sixth edition of this paper was published on 8 May 2020 and can be found [here](#). As the situation is constantly evolving, we are providing weekly updates to our readers. This is the seventh edition and includes updates from Hong Kong, Philippines and Taiwan.

Readers should take note that this information is accurate as at 14 May 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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CONTENTS

[APAC COVID-19 FAQ – Edition VI \(8 May 2020\)](#)

Edition VII – Updated Jurisdictions:

Hong Kong • 1

Philippines • 6

Taiwan • 13

HONG KONG

Q: Are there government directions restricting travel out of or into your jurisdiction (“Travel Restrictions”)?

A: The Hong Kong Government strongly discourages all non-essential travelling to any place outside of Hong Kong, but has not banned any outbound travelling.

Effective from midnight of 25 March 2020 (until further notice), all inbound travelers arriving in Hong Kong would be subject to compulsory quarantine of 14 days.

Also effective from midnight of 25 March 2020:

- All non-Hong Kong residents coming from overseas countries and regions by plane will be denied entry to Hong Kong;
- Non-Hong Kong residents coming from the Mainland, Macao and Taiwan will be denied entry to Hong Kong if they have been to any overseas countries and regions in the past 14 days; and
- All inbound travellers from the Mainland, Macao or Taiwan (including Hong Kong and non-Hong Kong residents) have to stay at designated places (home or other accommodation) for compulsory quarantine apart from the exempted persons (such as persons necessary for the supply of goods or services required for the normal operation of Hong Kong or the daily needs of the people of Hong Kong). However, the Hong Kong SAR Government restricts any Hubei residents, and non-Hong Kong residents who have visited the Hubei Province in the past 14 days upon arrival from entering Hong Kong.

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”). 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.

HONG KONG

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 of a “specified month” (any one month from December 2019 to March 2020 to be nominated by the employer), which is capped at HK\$18,000 (i.e. the maximum subsidy amount will be HK\$9,000). The number of all of its employees and their respective wages in the "specified month" will serve as the basis for calculating the subsidies.
- In terms of eligibility, except for ineligible employers (mainly being the Hong Kong government, statutory bodies, and public organisations) , employers who have been making MPF contributions / set up ORSO schemes for their employees are eligible to apply.
- Employers can apply for ESS wage subsidies in respect of employees who have MPF accounts (including those who are aged 65 or above for whom mandatory MPF contributions are no longer legally required, but they nevertheless have a MPF account to which their employers make voluntary contributions to) / who are members of the employer’s ORSO scheme.
- Employers will have to apply for ESS online. When submitting such online application, they will also have to: (i) authorise the ESS processing agent (appointed by the Government) to serve as their agent to receive the certificates on the relevant MPF records (including the number of employees and their wages) issued by MPF trustees; (ii) authorise their MPF trustees to provide

HONG KONG

the ESS processing agent (as their agent) with MPF record certificates to verify the information related to their MPF contributions. With the applicants' authorisation, the MPF trustees will forward the MPF record certificates in electronic format to the ESS processing agent direct. Applicants may also request their MPF trustees to provide such certificates for reference.

- As condition to application for the ESS, employers have to undertake that they cannot implement redundancy during the subsidy period and that they will spend all the government wage subsidies in paying wages to their employees in each of June, July and August 2020. The employees may be engaged in full-time or part-time work as each enterprise's circumstances differ. After approval of the application, the number of paid employees in any one month of the subsidy period between June and August 2020 shall not be less than the number of employees (including those on no-pay leave) in March 2020. Should there be any reduction in the number of employees on the payroll within the MPF and the ORSO framework during the period compared to the number of employees in March 2020, the ESS subsidy will be adjusted with claw back and other penalty. Details regarding penalties will be announced next week, but for now, the Government has said that (i) for an employer who has received the first tranche of payment, if it fails to use all the wage subsidies received for a particular month during the three-month subsidy period (i.e. June to August 2020) to pay the wages of its employees in the same month, the government will claw back the unspent balance of the subsidy; and (ii) if the number of employees on the payroll in any one month of the subsidy period is less than the number of paid or unpaid staff in March 2020, the employer will have to pay a penalty to the government.
- Payment will be made in two tranches. Applications for the first tranche will be from 25 May 2020 until 14 June 2020. It is expected that most employers will receive the wage subsidy in three to four weeks after application, so as to be able to subsidise their payment of salaries from June to August 2020. The second tranche of subsidies will be disbursed in September. Application details will be announced by the government in due course. The detailed application and payment mechanisms will be announced next week.

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 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. Part of the mechanism includes publishing the list of employers receiving ESS subsidy, the total number of employees benefited, and the amount of subsidy granted,

HONG KONG

to enable the society and the employees concerned to monitor the situation. In the event an employer is found to have breached the conditions of the scheme, the employees concerned or members of the public may report to the relevant authorities.

Separately, there is automatic deferral of payment of salaries tax, tax under personal assessment and profits tax which are due for payment in April, May and June 2020 by three months.. Profits tax, salaries tax and tax under personal assessment will be reduced by 100% for the year of assessment 2019-20, subject to a ceiling of HK\$20,000. Further, rates for non-domestic properties in 2020-21 will be waived, subject to a ceiling of HK\$5,000 per quarter in the first two quarters, and a ceiling of HK\$1,500 per quarter in the remaining two quarters. All taxpayers except for taxpayers who have to settle their tax liabilities before departing Hong Kong and taxpayers paying property tax will benefit from such deferral measure.

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.

HONG KONG

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 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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PHILIPPINES

Q: Are there government directions restricting travel out of or into your jurisdiction (“Travel Restrictions”)?

A: On May 12, 2020, the Philippine President approved the proposal to place Metro Manila, Laguna Province, and Cebu City, which have been identified as “high risk” areas, under modified enhanced community quarantine (“**MECQ**”) from May 16, 2020 to May 31, 2020. All other areas are to remain under General Community Quarantine (“**GCQ**”). The classification as MECQ or GCQ area is without prejudice to the declaration of localized Enhanced Community Quarantine in critical areas.

The Inter-Agency Task Force on Emerging Infectious Diseases (“**IATF**”) has not yet released any official issuance on the modifications to the previous guidelines on restrictions and permitted activities during the community quarantine period (whether in ECQ, MECQ or GCQ areas). Please refer to *APAC COVID-19 FAQ Edition VI – 8 May 2020* for the guidelines/protocols previously issued for areas placed under ECQ and GCQ. Nonetheless, the Presidential Spokesperson reported on such modifications in his press briefing on May 13, 2020.

Based on the Presidential Spokesperson’s press briefing, in ECQ and MECQ areas, there will be limited international flights. Inbound travel to the Philippines remains controlled. Only overseas Filipino workers (“**OFWs**”) and returning Filipinos will be allowed subject to mandatory testing upon their arrival in the Philippines and mandatory facility quarantine while waiting for the results. No announcement was made regarding outbound travel. However, based on an earlier IATF resolution, outbound travel shall be limited to official, emergency, cargo, ambulance and medical supply, weather mitigation, and maintenance flights, as well as international flights for stranded foreign nationals.

On May 1, 2020 the Department of Health (“**DOH**”) issued Department Memorandum Circular No. 2020-0200, which prescribes the Omnibus Interim Guidelines for the Quarantine and Testing Procedures for All Arriving Overseas Filipinos (“**OFs**”) and Foreign Nationals during the COVID-19 Pandemic (the “**DOH Interim Guidelines**”). The DOH Interim Guidelines provides, among others, that:

1. All inbound travelers will have to undergo quarantine and testing procedures upon their arrival in the Philippines.
2. There are two types of quarantine procedures that travelers will have to undergo depending on the assessment of authorities at the airport: (a) stringent quarantine procedures; and (b) mandatory quarantine procedures.

PHILIPPINES

3. The following high-risk individuals are required to undergo stringent quarantine procedures: (i) sea-based OFs where their ship or vessel was classified as high-risk based on the evaluation of the DOH-Bureau of Quarantine (“**BOQ**”) Repatriation Core Group; (b) land-based OFs and foreign nationals where their place of origin or lay-over are classified as high-risk based on World Health Organization COVID-19 Situation Report; and (c) any individual who is symptomatic upon his arrival at the airport. These “high-risk” travelers shall be under the supervision of the BOQ for the duration of the quarantine period.
4. Other travelers that do not fall under any of the categories in #3 above will have to undergo mandatory quarantine procedures.
5. Under the stringent quarantine procedures, travelers will: (a) undergo COVID-19 reverse transcription-polymerase chain reaction (“**RT-PCR**”) testing at the port of entry or at the designated quarantine facility; and (b) stay in a BOQ-approved facility until the test results are released (except foreign nationals who are holders of 9(e) visas (i.e., foreign government official visa) and their dependents may be allowed to stay in a BOQ-approved hotel quarantine facility of their choice at their expense). Those who test negative will be allowed to go home, provided they undergo a 14-day home quarantine. Those who test positive will be referred to treatment hospitals or facilities. Once cleared for discharge from the treatment hospitals or facilities, they will be required to undergo another 14-day home quarantine.
6. Meanwhile, under the mandatory quarantine procedures, travelers will: (a) undergo a Rapid Antibody COVID-19 testing upon their arrival; and (b) a 14-day mandatory quarantine at the mandatory quarantine facility designated by the Overseas Workers Welfare Administration (“**OWWA**”). Foreign nationals who are holders of 9(e) visas and their dependents who are classified for mandatory quarantine may opt for a RT-PCR COVID-19 testing and/or stay at a BOQ-approved hotel quarantine facility of their choice at their expense. Those who test negative are allowed to go home, provided they undergo 14-day home quarantine. Those who test positive will be referred to treatment hospitals or facilities. Once cleared for discharge from the treatment hospitals or facilities, they are required to undergo another 14-day home quarantine.
7. Travelers who are financially capable to pay for their own food and accommodation may be allowed to stay in BOQ-approved or OWWA- designated hotel quarantine facility of their choice at their expense.

Q: Please state what implications such Travel Restrictions have in managing employees

PHILIPPINES

A: International travel of employees and hiring of expatriates have to be deferred.

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

A: In his press briefing on May 13, 2020, the Presidential Spokesperson announced that:

- Category I industries allowed to operate in ECQ areas in full operational capacity will also be allowed to operate in MECQ areas at full operational capacity. Please refer to *APAC COVID-19 FAQ Edition VI – 8 May 2020* for the description of Category I, II, III and IV industries.
- The Category I Industries allowed to operate at full operational capacity in all community quarantine areas (e.g. ECQ, MECQ, and GCQ areas) are:
 1. Agriculture, forestry, fisheries;
 2. Manufacturing of essential goods (e.g. food and non-alcoholic beverages, medicines, etc.);
 3. Hospitals and clinics;
 4. Essential retail establishments (e.g. groceries, markets, pharmacies);
 5. Laundry shops;
 6. Food preparation and water-refilling establishments (for take-out and delivery only);
 7. Logistics service providers (cargo handling, warehousing, trucking, and shipping line);
 8. Delivery services;
 9. Utilities (e.g. power, energy, water, telecom);
 10. Repair and installation of machinery and equipment;
 11. Telecommunications companies;
 12. Energy companies (including their third-party contractors and service providers);
 13. Gasoline stations;
 14. Construction workers accredited by the Department of Public Works and Highways to work on facilities for healthcare and risk reduction;
 15. Manufacturing companies and supplier of equipment or products necessary for construction works; and
 16. Media establishments.
- Meanwhile, there are Category II and Category III industries that were previously not allowed to operate in ECQ areas that may now operate in MECQ areas (with 50% of its workers working from home and 50% of its workers working on site). These industries are:
 1. Other manufacturing activities (beverages such as alcohol products, wood, electrical equipment, motor vehicles, textile, and others);

PHILIPPINES

2. Public and private construction projects that are essentials (but small scale projects are still not allowed);
 3. Office administrative and office support;
 4. Other financial services (money exchange, insurance, and others);
 5. Legal and accounting;
 6. Management consultancy;
 7. Architecture and engineering activities; technical testing and analysis;
 8. Scientific and research development;
 9. Advertising and market research;
 10. Computer programming and information service activities;
 11. Publishing and printing activities;
 12. Film, music and TV production;
 13. Other activities (e.g., photography, fashion, industrial, graphic, and interior design);
 14. Wholesale and retail trade of motor vehicles. Motorcycles, and bicycles, including their parts and components;
 15. Repair of motor vehicles, motorcycles, and bicycles;
 16. Malls and commercial centers (non-leisure only);
 17. Hardware stores;
 18. Clothing and accessories;
 19. Mall-based government frontline services;
 20. Hardware stores;
 21. Bookstores and school and office supplies stores;
 22. Baby care supplies stores;
 23. Pet food and pet care supplies;
 24. IT, communications, and electronic equipment;
 25. Flower, jewelry, novelty, antique, perfume shops; and
 26. Toy store (with playgrounds and amusement area closed).
- The following Category III and IV industries are still not allowed to operate in ECQ, MECQ and GCQ areas:

PHILIPPINES

1. Barbershops and salons (but this item is currently under review by the Department of Trade and Industry (“DTI”) for GCQ areas);
2. Gyms/fitness studios and sports facilities;
3. Entertainment industries (e.g., cinemas, theaters, karaoke bars, etc.);
4. Kid amusement industries (e.g., playrooms, rides);
5. Libraries, archives, museums and cultural centers;
6. Tourist destinations (e.g., water parks, beaches, resorts);
7. Travel agencies, tour operators, reservation service and related activities; and
8. Personal care services (e.g., massage parlors, sauna, facial care, waxing, etc.).

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: In all community quarantine areas (e.g. ECQ, MECQ and GCQ), all inhabitants are required to comply with the safe distancing protocol (i.e. at least 1 meter apart from each other). Please refer to the summary of Interim Guidelines on Workplace Prevention and Control of COVID-19 issued by the DTI and the Department of Labor and Employment (“DOLE”) in the *APAC COVID-19 FAQ Edition VI – 8 May 2020*.

In his press briefing on May 13, 2020, the Presidential Spokesperson announced the following general return-to-work protocols for private establishments permitted to operate in community quarantine areas: (a) implement work from home as a default arrangement (onsite work should be treated as the exception); (b) provide private shuttles for workers; (c) sponsor the antibody testing and confirmatory PCR testing of its employees.

The Presidential Spokesperson also explained during his press briefings that MECQ areas are essentially still on ECQ except for a few modifications proposed by the IATF (the “MECQ Guidelines”):

1. The inhabitants in MECQ areas are still required to stay at home;
2. Unlike in areas placed under ECQ, limited outdoor exercises are now allowed (e.g. outdoor walk/run with minimum safety protocols);
3. Gatherings are highly restricted (only up to a maximum of 5 participants);
4. There will still be no public transportation (except for public shuttles);
 - a. no domestic flights will be allowed while limited international flights will be permitted as detailed above;
 - b. biking and non-motorized transportation shall be encouraged;
 - c. tricycles are still not allowed (exceptions shall be subject to local government and Department of Interior and Local Government guidelines);
 - d. personal vehicles for workers who will work in permitted sectors will be allowed (subject to a maximum number of 2 passengers per row); and
 - e. bicycle, motorcycle, and e-scooter are allowed (maximum of 1 person);

PHILIPPINES

5. School premises remain closed;
6. The government continues to operate on a skeleton-workforce and work-from-home arrangements; and
7. The list of establishments that are permitted to operate at a limited capacity has been further expanded (please see the summary of the establishments allowed to operate in MECQ areas above).

The IATF has not yet released any official issuance in relation to the foregoing return-to-work protocols and MECQ Guidelines.

On May 4, 2020, the DTI issued Memorandum Circular No. 21-2020 prescribing the guidelines on the operations of malls and shopping centers in GCQ areas. Malls and shopping centers are required to observe and enforce the following measures:

1. Strictly monitor the foot traffic and enforce safe distancing through:
 - a. limiting the number of people inside the mall or individual store to not more than one (1) person per two (2) square meters;
 - b. reducing the number of open mall entrances;
 - c. allowing only one companion for senior citizens, pregnant women, and persons with disabilities and only for the purpose of obtaining essential goods;
 - d. ensuring social distancing measure of one (1) meter between persons at all times;
 - e. assigning personnel to regulate foot traffic density;
 - f. ensuring that customers stand on every other step of the escalator;
 - g. limiting access to elevators to senior citizens, persons with disabilities, and pregnant women and only use half of its capacity;
 - h. marking the seats available for waiting customers;
 - i. creating a one-way flow to facilitate movement; and
 - j. increasing police visibility.
2. Provide a centralized pickup location for stores with delivery/pickup service;
3. Regulate air conditioning temperature to room temperature (i.e., 26 degrees centigrade);
4. Not to provide free Wi-Fi to customers;
5. Suspend any sale events, marketing events, and other promotions; and
6. Implement other measures that the mall or shopping center operators may find necessary.

On May 4, 2020, the Department of Public Works and Highways issued Department Order No. 35 Series of 2020, which applies to all public and private infrastructure projects for the duration of the public health crisis.

The following measures must be implemented prior to the workers' deployment:

1. Only workers from 21 to 59 years old without pre-existing health conditions are allowed to work;
2. Workers shall undergo testing before deployment. The expenses for the test must shouldered by the contractors;
3. Workers should be housed in barracks with segregated facilities for the duration of the project.

PHILIPPINES

4. The initial transportation of the workers to their respective barracks should be through private shuttle; and
5. Onsite workers should be provided with quarantine passes.

Meanwhile, the following measures must be implemented during deployment:

1. Workers must observe safe distancing of at least one meter in the worksite including the barracks;
 2. Daily disinfection must be observed;
 3. Errands outside the construction site should be minimized;
 4. All personnel returning from outside must observe mandated quarantine;
 5. Deliveries and disposal of waste must be handled by a separate team;
 6. Personal protective equipment for all employees shall be provided; and
 7. Safety officer must be assigned to ensure compliance with the guidelines.
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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. With the domestic epidemic calming down, the Central Epidemic Command Center announced on May 8th that the businesses that have suspended their operations may resume operations once they have passed an evaluation by the local government authority of their compliance with the epidemic prevention and safety conditions.

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. The government has been providing various aids starting from 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.

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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>.



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Published (May/2020)