

TRIPARTITE GUIDELINES ON THE RE-EMPLOYMENT OF OLDER EMPLOYEES

(Updated March 2017; To take effect on 1 Jul 2017)

Introduction

1 As part of its efforts to help older employees remain economically productive, the Government enacted re-employment legislation in 2012 to enable more people to continue working beyond the current statutory retirement age of 62, up to 65 in the first instance and, later, up to 67.

2 Formed under the aegis of the Tripartite Committee on Employability of Older Workers (“TriCom”), the Tripartite Implementation Workgroup (TIWG) aimed to help companies put in place the necessary processes and systems for re-employment to work. The TIWG released the Tripartite Advisory on the Re-employment of Older Workers (“Advisory”) in April 2008 and encouraged employers and employees to adopt the Advisory. Taking into account the feedback obtained on the Advisory, the TIWG updated and expanded the Advisory into Tripartite Guidelines on the Re-Employment of Older Employees (“Guidelines”) in 2011 to better prepare employers and employees for the re-employment legislation introduced in 2012.

3 On 8 Apr 2016, it was announced that the re-employment age would be raised from 65 to 67 years old with effect from 1 Jul 2017. The new re-employment age will apply to eligible employees who turn 65 on or after 1 Jul 2017. To help employers and employees prepare for this change, the tripartite partners have updated the Guidelines.

4 Under the Guidelines, the following good re-employment practices that employers should consider adopting have been identified:

- Planning and preparing employees for re-employment
 - a. Identifying eligible employees for re-employment
 - b. Re-employment planning and consultation
 - c. Job arrangements for re-employment
- The re-employment contract
 - d. Offer of re-employment
 - e. Duration of re-employment
 - f. Wages and medical and other benefits
 - g. Termination with notice
- Recognising the contributions of re-employed employees
- Assistance for eligible employees whom employers cannot re-employ

Planning and preparing employees for re-employment

5 Employers, in consultation with the unions, are encouraged to take a long-term view in planning and preparing employees for re-employment. Employers should see older employees as a source of quality manpower and recognise the value of making the workplace age-friendly. At the same time, employees have to see the benefit of staying employable, and should be flexible and adaptable so as to continue to contribute to the organisation.

Identifying eligible employees for re-employment

6 Employers should aim to re-employ the majority of their older employees. As a good practice, employers should offer re-employment contracts to all employees who are medically fit to continue working and whose performance are assessed to be satisfactory or above.

Re-employment planning and consultation

7 Employers should engage employees (in consultation with unions for unionised companies) on re-employment issues as early as possible, not less than 6 months prior to re-employment or extension of re-employment. This can be done as part of the regular performance appraisal process. The discussions should cover possible re-employment arrangements, the competencies and training they may require should they be re-deployed to a different job, and the pay and benefits employees can expect upon re-employment. For employees who fall short of the re-employment eligibility criteria in paragraph 6, employers should inform them about the need to improve their performance at this stage.

Job arrangements for re-employment

8 There should be flexibility in the job arrangements for re-employed employees. Employers may wish to consider adopting the following arrangements:

- a. Re-employing employees in the same job, with appropriate adjustments in wages and benefits based on reasonable factors, where necessary; or
- b. Re-employing employees with modifications to their existing jobs or re-deploying them to different jobs on renegotiated terms; or
- c. Re-employing employees on other work arrangements mutually agreed between both parties.

9 Where the job scope will be modified or the re-employed employee is expected to take on a different position, the employer should inform and prepare the employee in good time. Where applicable, adequate training should be provided to the employee well ahead of his re-employment to help him ease into his new role.

10 On their part, employees should keep an open mind about the re-employment options presented by the employer. This will allow employees and employers to reach mutually agreeable arrangements that meet the needs of both parties.

The re-employment contract

11 The re-employment contract should allow employers flexibility in re-employing older employees and at the same time, provide employees certainty and reasonable employment terms based on the value of the job and the employees' years of service.

Offer of re-employment

12 Employers should offer re-employment contracts to eligible employees at least 3 months before retirement to allow sufficient time for the employees to consider the offer. The terms and benefits of re-employment contracts can be the same as those prior to re-employment, or different, subject to mutual agreement.

13 Similarly, employers are encouraged to inform employees who do not qualify for re-employment at least 3 months before retirement, so that they can better prepare for retirement or seek other employment opportunities. Eligible employees who do not wish to continue working after they retire are also encouraged to inform their employers at this stage. This will enable employers to plan job deployment and manpower costs with greater certainty. To avoid disputes, employers are advised to obtain written confirmation from eligible employees who do not wish to be re-employed.

14 Employees who continue to be employed beyond the statutory retirement age or contractual retirement age (whichever is higher), without formal re-employment arrangements, are considered as being re-employed with the same terms as those prior to re-employment. The intent is to provide a simple way for employers to retain these employees beyond the current statutory retirement age of 62. At any time before these employees reach 67, employers may re-negotiate with them a new re-employment contract or deploy them to other suitable jobs, with adjustments to employment terms. This arrangement is supported by the tripartite partners and is aligned with the long-term national objective of raising the retirement age norm to 65 and beyond.

Duration of re-employment

15 To provide greater certainty for employees, employers should offer them 5-year re-employment contracts, up to the age of 67. Alternatively, employers could re-employ employees on a term contract of at least one year, renewable up to the age of 67, so long as the employee continues to meet the eligibility criteria in paragraph 6.

Wages and medical and other benefits

16 Employers and employees are encouraged to be flexible in negotiating re-employment terms and benefits. Where appropriate, employers may make reasonable adjustments to the

employment terms of re-employed employees, including wages and benefits. When making any adjustment, employers should consider the impact on the income of re-employed employees, particularly the low-wage workers. The Public Service is a case in point.

In the Public Service, to provide greater certainty for lower-wage public officers, these officers are re-employed at the same grade with their last drawn salaries. These include officers who typically perform clerical duties, technical duties or work which tend to be more manual or repetitive in nature.

17 To take into account business requirements and the need for leadership renewal, greater adjustments may be warranted for employees who previously held a larger or more senior job.

18 The following principles on adjustments to wages, medical and other benefits are intended to help companies move away from seniority-based wage systems to job-based and performance-based wage systems, as well as to help them manage the higher cost of medical and other benefits of an older workforce.

Wages

19 Upon re-employment, any wage adjustment should be based on reasonable factors such as productivity, duties and responsibilities and wage system¹; if wages have to be adjusted, employers may wish to consider the following principles:

- a. Where the employer's offer is to retain the employee in the same job, the wages could be adjusted down to the level of a younger employee with the requisite experience and competency for the same job. For example, the adjustment could be to the mid-point of the salary range of the job;
- b. Where re-deployment in another job is offered, the new wage should take into account the value of the job, the employee's relevant experience and other attributes.

20 Employers are discouraged from making wage adjustments if there is no seniority-based element in their wage system.

21 Employers may adapt these principles to suit their particular circumstances.²

¹ In making any wage adjustment, employers should also take into account any earlier reduction made when an employee attained 60 years of age.

² An example of this would be where a salary range for the job may not exist, or where the employee is earning a wage that is below the maximum of the salary range. In such cases, employers can adapt paragraph 19(a) and adjust wages using the mid-point between the starting salary of the worker's current job and his present salary as possible reference.

Medical benefits

22 In considering medical benefits for employees, employers can consider the following options:

- a. Continue providing existing medical benefits;
- b. Where medical costs are a concern, employers may wish to consider
 - i. Co-payment of medical benefits for re-employed employees; or
 - ii. Appropriate caps on medical benefits claimable;
- c. Restructure the existing medical benefits into another suitable portable medical scheme; or
- d. Leverage Medishield Life to provide medical benefits to re-employed employees, if they have not already done so. One way is by providing additional Medisave contributions for re-employed employees. This also has the effect of making medical benefits more portable.

Leave entitlement and other benefits

23 Given that employees who are re-employed have served the organisation over the years and have performed satisfactorily, they should not be required to serve the minimum qualifying period to be eligible for employment benefits such as annual leave and sick leave.

24 To maintain internal equity when offering re-employment benefits, employers should consider the employment benefits of other staff (including new employees) whose job responsibilities and conditions are similar to those of the re-employed employee.

Termination with notice

25 Employers and employees may exercise normal termination with notice in accordance with their employment contracts. Re-employed employees who feel that they were unfairly dismissed may appeal to the Minister for Manpower for reinstatement or compensation.

Recognising the contributions of re-employed employees

26 Employers should recognise that re-employed employees are an integral part of the organisation. They should, where appropriate, continue to reward re-employed employees based on company and individual performance in the form of performance bonuses, annual increments, long service benefits, gain-sharing incentives or one-off bonuses, using the following principles:

- a. Annual increments. Re-employed employees who are not at the maximum of their salary ranges should be eligible for annual increments.

b. Variable payments. Variable payments are subject to negotiation and mutual agreement between employee and employer.

c. Any adjustments should be based on reasonable factors.

27 This recognition will help to incentivise and motivate these employees to perform well.

Assisting eligible employees whom employers are unable to re-employ

28 To enable eligible employees to continue to contribute to the organisation upon retirement, employers should consider all available re-employment options within their organisation and identify suitable jobs for eligible employees. Employers who cannot find suitable jobs for eligible employees should inform their employees as early as practicable.

29 Employers who are unable to re-employ eligible employees have the following two options:

- a. Transfer the re-employment obligations to another employer with agreement from the employee; or
- b. Offer a one-off Employment Assistance Payment (EAP). In addition, employers are encouraged to provide outplacement assistance to help eligible employees whom they cannot re-employ find alternative employment.

Re-employment by another employer

30 Two conditions must be fulfilled before the employer (E1) can transfer his re-employment obligations³ for an eligible employee to another employer (E2):

- a. The new employer (E2) must agree to take over the prevailing re-employment obligations with respect to the eligible employee from the present employer (E1); and
- b. The employee must agree to the re-employment offer by the new employer (E2).

The employee is not obliged to accept a re-employment offer by the new employer (E2). If the employee turns down the re-employment offer by the new employer (E2), he is entitled to EAP from his present employer (E1).

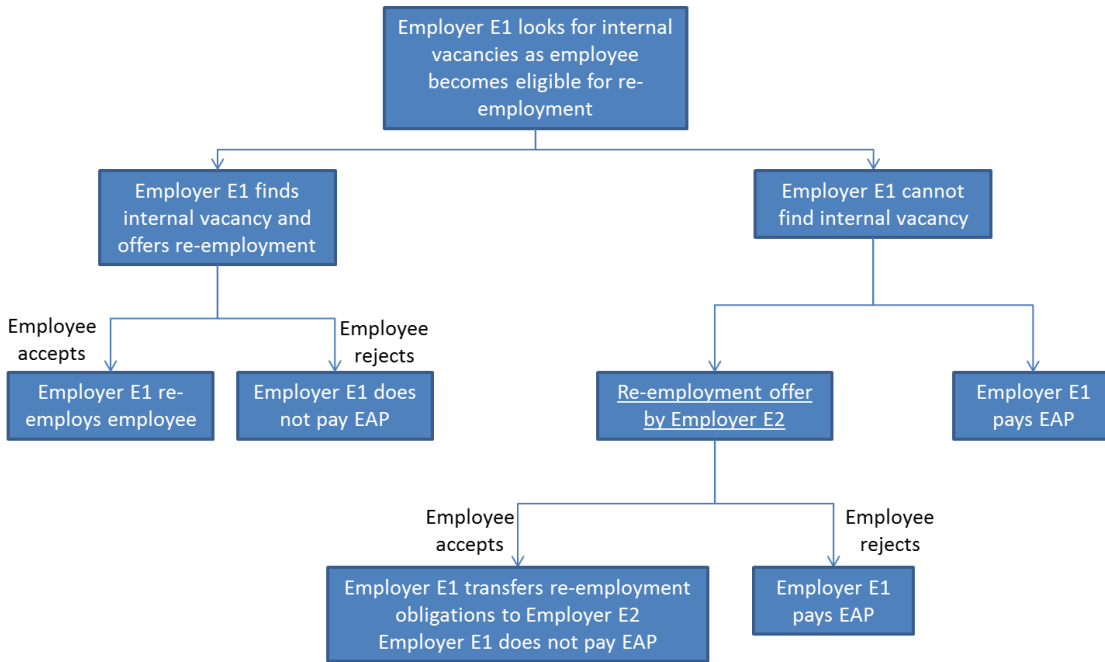
31 The prevailing re-employment obligations to be transferred should be listed in a consent form signed by the present employer (E1), new employer (E2) and employee. The transfer of re-employment obligations for E2 will take effect from the date on which the new employer's (E2's) re-employment contract with the employee comes into effect.

32 Re-employment by another employer creates uncertainty for the employee. To provide assurance to the employee, the new employer (E2) should commit to an EAP pegged to the salary of the previous job, if the new salary is lower than the previous salary, for the first three months

³ The transfer of re-employment obligations in this section refer to the scenario mentioned in sections 7C(1)(b) and 7C(1A) effected by clause 7 of the Retirement and Re-employment (Amendment) Bill 2016.

of re-employment. This EAP amount should be specified in the consent form. After the first three months of re-employment, EAP should be pegged to the salary of the employee at the time EAP is offered.

33 The options available to employers with an employee becoming eligible for re-employment are summarised in the chart below:



Employment Assistance Payment (EAP)

34 The amount of EAP should be guided by the following principles:

- a. The EAP is to help eligible employees who are not re-employed tide over a period of time while they look for another job. The EAP amount could be 3.5 months of salary⁴.
- b. There should be a minimum EAP amount to help the low-wage workers as they may have greater difficulty seeking alternative employment if they are not re-employed. A minimum EAP amount of \$5,500 could be considered.
- c. There should be a maximum EAP amount to moderate the financial burden on employers and to prevent the EAP from encouraging employees to stop working. A cap of \$13,000 could be considered.

⁴ The EAP amount should be computed based on gross rate of pay as defined in the Employment Act.

- d. To take into account the employer's obligation to re-employ eligible employees up to age 67, the EAP should decrease over time as this obligation diminishes as the employee approaches the age of 67. Accordingly, employers who are unable to offer re-employment to employees who have been re-employed for at least 30 months since age 62, could consider offering a lower EAP amount of 2 months of salary⁵ (subject to a minimum EAP of \$3,500 and a maximum EAP of \$7,500).
- e. For employees nearing age 67, the amount of EAP should not be greater than the salary payable for the remaining period of employment up to age 67.

35 Where appropriate the employer and its union could consult and discuss the EAP amounts.

36 It is recognised that it would be more difficult for employers to re-employ senior management staff on the same job due to the need to facilitate leadership renewal and organisational change, hence employers may re-employ them on a different job, sometimes in a subsidiary company. Where their employment contract provides for the employee to be transferred to subsidiaries, such an arrangement will continue upon re-employment provided the subsidiary takes over the re-employment obligations of the present employer with respect to the employee. In addition, as senior management staff may have more options than other employees, the EAP would be an appropriate alternative if re-employment is not feasible.

37 Employees who are recruited at the age of 55 or above are exempted from the statutory retirement age. Notwithstanding this, employers should offer re-employment to such employees who have at least 3 years of service upon reaching the age of 62 if they meet the eligibility criteria for re-employment. Similarly, employers should offer EAP to these employees if they are unable to offer them re-employment. Some of the employees who are recruited on or after the age of 55 may not be re-employed despite meeting the eligibility criteria for re-employment because (i) they are not retained up to the age of 62, or (ii) they have less than 3 years of service at the age of 62. For such employees, employers could also consider granting an ex-gratia payment, taking into account the employee's length of service and contributions.

38 As employees who are re-employed have already reached the statutory (or contractual) retirement age, the issue of retrenchment benefits does not arise. However, as this group of employees would find it difficult to secure new jobs if they are retrenched, employers should offer financial assistance (using EAP as a reference) to help tide them over while they look for alternative employment.

Conclusion

39 As Singapore's population and workforce rapidly ages, there is an urgent need to tap into the valuable skills and experience of older employees. Employers are urged to implement the Guidelines. On their part, employees are encouraged to be flexible in working out re-employment arrangements with their employers, so that they can continue to contribute to their organisations

⁵ The EAP amount should be computed based on gross rate of pay as defined in the Employment Act.

and earn a regular income. This will better prepare both parties for the revised legislation, provide employment opportunities to employees beyond the statutory retirement age, and raise the effective retirement age of employees in Singapore.

**Frequently Asked Questions on the
Tripartite Guidelines on the Re-employment of Older Employees**

Q1.	What is the purpose of this new set of Tripartite Guidelines? The tripartite partners have reviewed and updated the Tripartite Guidelines on the Re-employment of Older Employees. They serve as a reference for employers and employees in preparing for re-employment and dealing with the re-employment offer ahead of the legislative changes to give effect to the new re-employment age of 67. We strongly encourage employers to adopt the policies and practices in the Tripartite Guidelines ahead of the new re-employment age taking effect.
Q2.	What is considered a reasonable re-employment offer? Whether a re-employment offer is considered reasonable depends on many factors, including whether there has been adequate re-employment consultation and the extent of adjustments in wage and benefits to reflect the value of the job. Early and open communication with workers and unions is key to ensure smooth implementation of re-employment. Employers should exercise flexibility and fairness in designing jobs and remunerating older employees. They should also implement competitive wages based on job worth and productivity. At the same time, employees are encouraged to be flexible in working out re-employment arrangements with their employers and to be open to go for training so that they can take on new job arrangements and continue to stay employed.
Q3.	In assessing an employee’s eligibility for re-employment, how should an employer assess whether he/she has given “satisfactory performance”? Satisfactory performance refers to the minimum level of performance any employee is expected to maintain in discharging his duties. In assessing the eligibility of an employee for re-employment, employers may take into account the employee’s performance for the past 2-3 years.
Q4.	In assessing an employee’s eligibility for re-employment, how should employers assess whether an employee is “medically fit to continue working”? In general, re-employed employees should be presumed to be medically fit to continue working. There is no need to send an employee for a medical check-up if he/she does not show any signs of being medically unfit for the job.

	<p>If they do, employers could send them for medical check-ups on a case by case basis, without having to send all employees in the same job for medical check-ups. Employers could also send re-employed employees for medical check-ups if it is a job requirement that is applied to other employees with that job scope.</p>
<p>Q5.</p>	<p>How does providing medical benefits in the form of additional Medisave contributions help employers and re-employed employees?</p> <p>Providing employer medical benefits in the form of additional Medisave contributions helps employers better predict and plan their medical expenses. In contrast, other forms of employer medical benefits (e.g. Group Hospitalisation and Surgical insurance (GHS) or self-funding) is dependent on the employees' claims experience and may fluctuate.</p> <p>This would also help re-employed employees build up their Medisave Accounts. The latter has the added benefit of increased portability by helping the worker accrue medical benefits post-employment.</p> <p>In addition, as it is mandatory for Singapore Residents to be covered by MediShield Life, and many have also chosen to be covered by Integrated Shield Plans, other forms of employer medical benefits (e.g. GHS) might result in duplication with this coverage. It is therefore beneficial to both employer and employee to remove this duplication.</p>
<p>Q6.</p>	<p>What could employees do if they feel that they have been unfairly denied of re-employment or the re-employment offer is unreasonable?</p> <p>Employees are advised to make their job preference known during the re-employment consultation process, and employers are advised to refer to the Tripartite Guidelines in making re-employment offers. Employees are not obliged to accept an unreasonable re-employment offer.</p> <p>The re-employment legislation provides recourse for employees should they encounter re-employment disputes. Employees may approach MOM or their unions where appropriate. In a situation where employees feel that they have been unfairly denied of re-employment, employees may appeal to the Minister for Manpower. In a situation where employees receive an unreasonable re-employment offer or Employment Assistance Payment, employees may seek remedy and assistance from the Commissioner for Labour, and the Employment Claims Tribunals come 1 April 2017.</p>
<p>Q7.</p>	<p>How were the revised Employment Assistance Payment (EAP) amounts determined?</p>

	<p>In line with the raising of the re-employment age, the tripartite partners agreed to increase the EAP amounts and age coverage accordingly. The revised amounts also take into account wage increases in recent years.</p>
Q8.	<p>What support is available to companies who want to implement re-employment?</p> <p>The Government will continue to support companies who voluntarily re-employ older workers beyond 65. The additional wage offset of 3% for employers who re-employ workers above 65 will be extended to 1 July 2017, until the new re-employment age takes effect.</p> <p>Companies can also tap on WorkPro to learn about and implement good age management practices such as re-employment. A grant of up to \$20,000 is available to eligible companies who improve their workplaces practices to benefit their mature employees.</p> <p>More information can be found at www.wda.gov.sg/workpro.</p>