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28 May 2024

Flexible Working Arrangements: A Comparative Analysis of the Laws in Malaysia and Singapore

Flexible Working Arrangements (“**FWAs**”) are increasingly recognised as vital components of inclusive workplaces, fostering a balance between employee needs and organisational goals. In Malaysia, pursuant to Section **60P** of the Employment Act 1955 (“**EA 1955**”), employees have the right to apply for FWAs, allowing adjustments to their hours, days, or place of work. While this provision grants employees the right to request FWAs, employers retain the discretion to approve or reject such applications within 60 days, as stipulated by the EA 1955. If such an application is refused, the employer must provide written reasons for the decision.

Conversely, Singapore introduced the Tripartite Guidelines on Flexible Work Arrangement Requests (“**Tripartite Guidelines**”), effective 1 December 2024, to streamline the process for formal FWA requests. These guidelines encompass various FWAs, including flexible timings and workloads, outlining procedures for submission and evaluation.

Similar to Malaysia’s EA 1955, the Tripartite Guidelines do not dictate outcomes, allowing employers flexibility in decision-making.

This article aims to compare the frameworks for formal FWA requests in Malaysia and Singapore, highlighting the differences between the two jurisdictions.

Differences in FWAs

Outlined below is a table identifying the primary distinctions in formal FWA requests between Malaysia and Singapore:

	Malaysia	Singapore
Categories of FWAs	Hours of work Days of work Place of work	Flexi-Place Flexi-Time Flexi-Load
Time for Employers to consider FWA Applications	60 days	2 months
Who can make FWA Applications	All employees covered under the EA 1955.	All employees (except probationers).
Grounds for rejecting FWA Applications	N/A	Reasonable business grounds.
Rejection of FWA Applications	Reasons for rejection must be provided.	Reasons for rejection must be provided and the employer is encouraged to engage with employees on alternative arrangements.

The primary difference between FWAs in Malaysia and Singapore lies in the breadth of categories. While Malaysia's FWAs are more restricted in scope, Singapore has expanded its FWA options to encompass flexible workloads. This entails employees working with varying workloads, each matched with corresponding remuneration. An example of such flexibility is job sharing.

Job sharing involves dividing one job's responsibilities between two or more people. It is useful when a position needs full-time attention but does not require just one person. Job sharing encourages the sharing of ideas and learning from each other. Additionally, it helps ensure tasks are covered when someone takes time off. However, having two people in one role does lead to an increase in overhead costs.

Grounds for Rejecting an FWA Application

Employers in Malaysia currently face uncertainty regarding the acceptable grounds for rejecting FWA applications. Looking to Singapore, where clear examples of acceptable grounds for rejecting FWA applications have been provided in the Tripartite Guidelines, Malaysian employers may find valuable guidance in navigating this aspect of FWA implementation.

(a) Costs

Granting an FWA application can impose a considerable financial burden on employers, particularly in scenarios where remote work is involved. For instance, certain FWAs may necessitate employers to cover expenses associated with establishing a home office, including investments in office supplies and high-speed internet connections for employees. Cumulatively, these costs can escalate, particularly if a

significant portion of the workforce transitions to remote work arrangements.

(b) Detrimental to Productivity or Output

Granting an FWA application may result in a notable decline in individual, team, or organisational productivity and output, particularly in instances where remote or flexible schedules are involved. Supervisors may encounter difficulties in effectively monitoring the performance and progress of employees who are working remotely or on flexible schedules. This can impede their ability to offer timely feedback, address performance concerns, and uphold accountability standards. Consequently, this situation has the potential to diminish both individual and team productivity levels.

(c) Feasibility or Practicality

Granting an FWA application may prove unfeasible or impractical in certain instances, particularly in industries characterised by manufacturing or production lines. These environments demand adherence to specific shifts or schedules to sustain uninterrupted operations and achieve production goals. Introducing flexible working arrangements within such settings risks disrupting workflow, prolonging downtime, and diminishing productivity levels.

Conclusion

In both jurisdictions, the absence of penalties for employers who reject employees' FWA requests is notable. Instead, employers are obligated to provide reasons for the rejection, fostering transparency and accountability in the decision-making process. While this may initially seem stringent, it also offers an opportunity for constructive dialogue between employers and employees.

By fostering open communication and flexibility, employers can demonstrate their commitment to supporting employees' work-life balance while ensuring the organisation's operational needs are met. This proactive approach not only enhances employee satisfaction and morale but also contributes to a more inclusive and adaptable workplace culture.

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