

# LHAG INSIGHTS EMPLOYMENT & INDUSTRIAL RELATIONS

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## KEY LAWYER

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## NAVIGATING THE NEW ERA OF FLEXIBLE WORK: GUIDELINES FOR THE IMPLEMENTATION OF FLEXIBLE WORK ARRANGEMENTS

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Effective 1.1.2023, amendments to the Employment Act 1955 introduced Sections 60P and 60Q to promote Flexible Work Arrangements (“FWA”), aimed at enhancing employee welfare. In brief, employees may now request for flexible work options, reflecting the evolving landscape of modern workplaces and technological advancements. By October 2024, 2,826 organisations and 565,210 employees in Malaysia had adopted FWAs, highlighting their substantial impact and transformative potential.<sup>1</sup>

In December 2024, a publication titled “*Guidelines for the Implementation of Flexible Work Arrangements*” (“**FWA Guidelines**”) was issued by the Ministry of Human

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[1] <https://www.nst.com.my/news/nation/2024/12/1144249/govt-rolls-out-new-guidelines-flexible-work-arrangements>

Resources in collaboration with Talent Corporation Malaysia Berhad. It provides structured guidance to employers, employees, and trade unions on various aspects of FWA, with the aim to cultivate compliance with legal requirements and promote a balanced and progressive work culture.

Key points from the FWA Guidelines are summarised below:

Matter	Elaboration	Illustrations
<b>Types of FWA</b>	<p>(a) <i>Flexible hours</i>: Adjust your work hours while meeting minimum daily/weekly requirements, including starting or ending work earlier.</p> <p>(b) <i>Flexible workdays</i>: Work fewer days a week (e.g., Monday to Thursday) while ensuring weekly hours are fulfilled.</p> <p>(c) <i>Flexible workplaces</i>: Options to work from home, fully remote, or hybrid.</p>	<p>An employee works:</p> <p>(a) from 7:00 AM to 3:00 PM instead of 9:00 AM to 5:00 PM.</p> <p>(b) Monday through Thursday while completing the required 40-hour workweek.</p> <p>(c) Working remotely three days a week, while attending office two days a week.</p>
<b>Eligibility</b>	<p>FWA is suitable for roles that do not require an employee's physical presence at the workplace.</p>	<p>An employee may work from home, as his role involves tasks that can be completed independently and delivered online.</p> <p>An employee may not qualify for FWA due to the need for on-site presence.</p>
<b>Nature of FWA</b>	<p>Permanent, for a defined period, or on a rotational basis.</p>	<p>An employee applying for a permanent remote work or a hybrid arrangement for six months during a health recovery period.</p> <p>A rotational system for sales staff, where each team member alternates between remote and on-site work weekly.</p>
<b>Application Process</b>	<p>Must be in writing, supported with justifications (e.g., a doctor's letter).</p> <p>Employers must respond in writing within 60 days, with reasons for any rejections.</p> <p>Employers must ensure a fair and non-discriminatory review process.</p>	<p>An employee submits an FWA request with supporting documentations, such as a letter from their healthcare provider.</p> <p>The employer reviews and approves the request in writing, outlining the agreed terms of flexible hours and location.</p>

Matter	Elaboration	Illustrations
<b>Employer Considerations</b>	<p>When reviewing and approving applications for FWA, employers should carefully address several important factors to ensure that both operational needs and employee expectations are met.</p> <p>Key considerations:</p> <p>(a) Employers must establish clear and measurable systems for evaluating employee performance under FWA. This can include requiring periodic work reports.</p> <p>(b) Employers should put in place robust communication methods to stay connected with employees working remotely or under flexible arrangements.</p> <p>(c) Employers retain the right to withdraw FWA approval for business or productivity reasons.</p> <p>(d) Employers must specify the duration of the FWA in their approval—whether it is permanent, for a defined period, or based on a rotational schedule.</p> <p>(e) Comprehensive records of all FWA applications, approvals, and terms must be maintained.</p> <p>(f) For employees working remotely or in alternate locations, employers must ensure compliance with safety requirements.</p> <p>(g) Any other specific requirements or conditions related to the FWA must be explicitly stated in the agreement/</p>	<p>Implementing a Key Performance Indicators (“KPI”) system for employees working flexible hours to ensure deliverables are met.</p> <p>Scheduling weekly virtual check-ins with remote workers to maintain team collaboration.</p> <p>Creating a written agreement specifying a six-month trial period for a hybrid arrangement.</p>
<b>Withdrawal of FWA</b>	Withdrawal of FWA privileges requires prior agreement unless explicitly stated otherwise.	The FWA agreement states that the arrangement may be withdrawn with one month’s notice, citing reasons such as operational demands or other relevant considerations.

## CONCLUSION

The FWA Guidelines represent a progressive move towards modernising Malaysia's workplace dynamics. By fostering greater flexibility, the FWA Guidelines cater to the diverse needs of today's workforce while addressing the challenges posed by rapid technological advancements and shifting societal norms. Employers and employees alike must collaborate to embrace these changes, ensuring that FWA becomes a sustainable and beneficial practice – offering a robust foundation for creating a more inclusive employment environment.

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