

**TRIPARTITE GUIDELINES ON
THE RE-EMPLOYMENT OF OLDER EMPLOYEES
(Released on 11 January 2011)**

Introduction

1 As part of its efforts to help older employees remain economically productive, the Government will enact re-employment legislation by 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. This change, accompanied by increased Workfare Income Supplement (WIS) for older, low-wage workers, will complement the CPF Minimum Sum Draw-Down-Age (DDA), which will progressively be raised from 2012.

2 Formed under the aegis of the Tripartite Committee on Employability of Older Workers (“TriCom”), the Tripartite Implementation Workgroup (TIWG) aims 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 has been encouraging employers and employees to adopt the Advisory. Taking into account the feedback obtained on the Advisory, the TIWG has updated and expanded the Advisory into Tripartite Guidelines on the Re-Employment of Older Employees (“Guidelines”) to better prepare employers and employees for the re-employment legislation.

3 Under the Guidelines, the TIWG has identified good re-employment practices that employers should consider adopting in the following areas:

- 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. Adjustments to 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

4 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

5 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

6 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. 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 5, employers should inform them about the need to improve their performance at this stage.

Job arrangements for re-employment

7 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.

8 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.

9 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

10 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

11 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.

12 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.

13 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 65, 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

14 To provide greater certainty for employees, employers should offer them 3-year re-employment contracts, up to the age of 65. Alternatively, employers could re-employ employees on a term contract of at least one year, renewable up to the age of 65, so long as the employee continues to meet the eligibility criteria in paragraph 5.

Adjustments to wages and medical and other benefits

15 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. 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.

16 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

17 Upon re-employment, employers may wish to consider the following principles on wage adjustments, taking into account the extent of the seniority element in the wage structure:

- 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, with the mid-point of the salary range of the job being a possible reference. In making any wage adjustments for re-employment, employers should taken into account any earlier reduction made when an employee attained 60 years of age, as well as reasonable factors such as productivity, performance, duties and responsibilities and wage system;
- 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.

18 Employers may adapt these principles to suit their particular circumstances.¹

Medical benefits

19 Where medical costs are a concern, employers may wish to consider the following arrangements on medical benefits:

- a. Co-payment of medical benefits for re-employed employees;
- b. Appropriate caps on medical benefits claimable; or
- c. Employers providing additional Medisave contributions for employees to pay Medishield premiums, in lieu of providing for in-patient medical benefits.

¹ 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 17(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.

Leave entitlement and other benefits

20 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.

21 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

22 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

23 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, long service benefits, gain-sharing incentives or one-off bonuses. This recognition will help to incentivise and motivate these employees to perform well.

Assisting eligible employees whom employers are unable to re-employ

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

25 Employers should offer eligible employees a one-off Employment Assistance Payment (EAP) if they are unable to find suitable jobs for them. 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 months of salary².
- 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 \$4,500 could be considered.

² The EAP amount should be computed based on gross rate of pay as defined in the Employment Act.

- 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 \$10,000 could be considered.
- d. To take into account the employer's obligation to re-employ eligible employees up to age 65, the EAP should decrease over time as this obligation diminishes as the employee approaches the age of 65. Accordingly, employers who are unable to offer re-employment to employees who have been re-employed for at least 18 months since age 62, could consider offering a lower EAP amount of 2 months of salary³ (subject to a minimum EAP of \$3,000 and a maximum EAP of \$7,000).
- e. For employees nearing age 65, the amount of EAP should not be greater than the salary payable for the remaining period of employment up to age 65.

26 It is recognized that it would be more difficult for employers to re-employ senior management staff due to the need to facilitate leadership renewal and organisational change. In addition, as senior management staff have more options than other employees, the EAP would be an appropriate alternative if re-employment is not feasible.

27 In addition to the EAP, employers are encouraged to provide outplacement assistance to help eligible employees whom they cannot re-employ find alternative employment.

28 Employees who are recruited at the age of 55 or above are exempted from the Retirement Age Act. 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.

29 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

³ The EAP amount should be computed based on gross rate of pay as defined in the Employment Act.

30 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 even before re-employment legislation comes into effect. 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 and earn a regular income. This will better prepare both parties for the new legislation, provide employment opportunities to employees beyond the statutory retirement age, and raise the effective retirement age of employees in Singapore.