

FLEXIBLE WORKING ARRANGEMENTS GUIDELINES

5 December 2024



The Minister of Human Resources, Yang Berhormat Tuan Steven Sim Chee Keong, today launched the Guidelines for Implementation of Flexible Work Arrangements (“**FWA**”) published by the Department of Labour, Peninsular Malaysia (“**Guidelines**”).

Following the amendments which came into force on 1 January 2023, **Section 60P** of the **Employment Act 1955** allows an employee to apply for flexible work arrangement to vary the hours of work, days of work or place of work in relation to his employment. **Section 60Q** provides that the application shall be made in writing in the form and manner as may be determined by the Director General of Labour; and that the employer shall, within 60 days from the date of receipt of such application, approve or refuse the application in writing. In the case of a refusal, the employer shall provide the reasons for such refusal.

The Guidelines, which provide guidance on the FWA provisions above, define FWA as flexibility in terms of working hours, days of work or place of work; and provides that employees may apply to vary the existing work arrangement contractually agreed to.

The Guidelines refer to four types of FWA:

- Flexible working hours
- Flexible working days
- Flexible place of work
- Any combination of the above

The Guidelines provide examples of how FWAs may be carried out as follows:

i. Flexible Hours of Work

- An employee may be given flexibility to begin their day of work at various times between 7:00 a.m. to 10:00 a.m. and correspondingly end their day of work at anytime between 3:30 p.m. to 6:30 p.m. provided that employees fulfil 7.5 hours of work daily;
- An employee may be given flexibility to start and end work at varying hours in a day, for example, between 7:30 a.m. to 9:00 p.m., provided that they fulfil the required hours of work; and
- An employee may opt for a break of 30 mins instead of one hour in return for stopping work 30 mins earlier.

ii. Flexible Days of Work

- An employee who works 6 days a week may be given flexibility to work only 5 days per week provided that each day of work does not exceed 9 hours and the total number of hours worked per week does not exceed 45 hours; and
- An employee may be given flexibility to choose their days of work in a week provided that they fulfil the required hours of work in a week and that the employee shall not be required to work without having at least 1 rest day in a week.

iii. Flexibility to work from different Locations

- An employee may be given flexibility to work from home from Mondays to Fridays from 8:00 a.m. to 6:00 p.m.;
- An employee may be given flexibility to work from home for a month to care for a child who is unwell; and
- An employee may be given flexibility to work on a hybrid arrangement whereby the employee works on site for 3 days and works from home for 2 days in a week.

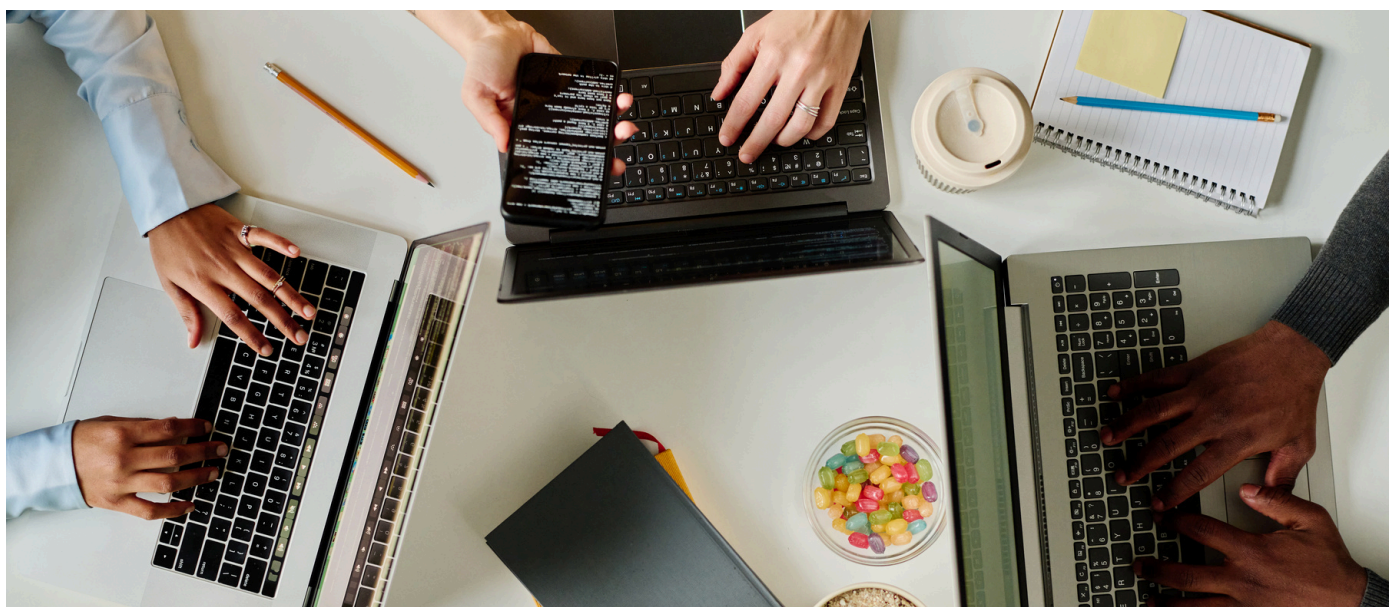
iv. A combination of any of the above flexible work arrangements:

- An employee may be given flexibility to work from home from Mondays to Fridays from 8:00 a.m. to 6:00 p.m.;
- An employee may be given flexibility to work from home for a month to care for a child who is unwell; and
- An employee may be given flexibility to work on a hybrid arrangement whereby the employee works on site for 3 days and works from home for 2 days in a week.

The Guidelines recognise that not all job roles are suitable for FWA and cites production operators, security personnel, janitorial and sanitation workers, and bus drivers as examples.

The Guidelines further provide that FWA may be implemented:

- Permanently i.e. the arrangement is open ended without a defined end date;
- Temporarily i.e. The arrangement is for a defined period only; and
- Rotationally i.e. the arrangement is carried out on a rotational basis among the employees. For example, employees within a department may rotationally work from home.



Employers may impose conditions when approving an application for FWA subject to certain prohibitions:

Permitted	Prohibited
<ul style="list-style-type: none"> ✓ Work Monitoring Mechanisms ✓ Right to revoke FWA approvals ✓ Provision of incentives to facilitate FWA such as internet or IT equipment allowance 	<ul style="list-style-type: none"> ✗ Denial of statutory entitlements such as rest days, rest day pay, overtime pay, annual leave, sick leave or paternity leave. ✗ Conditions that contradict collective agreement terms ✗ Reduction or abolition of existing compensation & benefit contractually agreed except for benefits that are no longer relevant when an employee is granted FWA e.g. parking or travel allowances ✗ Increased targets or KPIs. ✗ Any conditions contrary to labour law

The Guidelines provide a sample application form ([here](#)).

On receipt of an application, an employer must:

- Respond in writing within 60 days.
- If the employer rejects the application, the grounds for refusal or rejection must be stated in writing.
- Ensure that the application is considered in a non-discriminatory manner.

In allowing the application, the employer should:

- State whether the arrangement is permanent, temporary or rotational.
- State the applicable terms.
- Establish a suitable work monitoring and assessment process.
- Maintain all records related to FWA applications.
- Ensure full compliance with safety and health aspects.
- Establish proper communication channel during FWA.
- Provide copy of additional terms imposed to the employee.

The Guidelines encourage employers to establish an appeal mechanism that employees may have recourse to if their application for FWA is denied.

The employer or employee may only revoke an approved FWA if the FWA terms provide for such revocation, failing which it may only be revoked by mutual consent.

Employees who are aggrieved may lodge complaints to the nearest Labour Department if the employer fails to respond within 60 days after an application for FWA is submitted or fails to provide reasons for the refusal or if there exists any element of discrimination in the consideration of the FWA application.

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