TRIPARTITE GUIDELINES ON THE RE-EMPLOYMENT OF OLDER EMPLOYEES

(To take effect on 12 October 2020)

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 who are willing and able to continue working, to do so beyond the statutory minimum Retirement Age ¹, up to the statutory maximum Re-employment Age².
- 2. In 2018, the Tripartite Workgroup on Older Workers was convened to prepare our employers and ageing workforce for the future. The Workgroup consulted extensively, studied the trends on ageing, examined international best practices and carefully considered the concerns of businesses and workers. In 2019, it set out a comprehensive set of recommendations that would provide a clear roadmap for the national strategy for productive longevity over the next decade till 2030. At National Day Rally 2019, Prime Minister Lee announced that the Government accepted the Workgroup's recommendations in full.
- 3. Among the Workgroup's key recommendations were that the statutory minimum Retirement Age and statutory maximum Re-employment Age be raised by three years each to 65 years and 70 years respectively by 2030. The first move is planned to effect from 1 July 2022, increasing to 63 and 68 respectively. The Workgroup also made recommendations to promote an inclusive workforce and progressive workplaces that value older workers.
- 4. Although COVID-19 has challenged the labour market, the tripartite partners agree that the important work to enable older employees to continue working if they are able and willing to do so, must continue. At the same time, it is ever more important to ensure there is constant and open communication between employers and employees, as this period calls on everyone, whether young or old, employee or employer, to make adjustments and if necessary, sacrifices, so as to save livelihoods and businesses as much as possible.
- 5. The Tripartite Guidelines on the Re-Employment of Older Employees ("Guidelines") are updated to reflect the Workgroup's recommendations. Under

¹ No employer shall dismiss on the ground of age any employee who is below the statutory minimum Retirement Age.

² Employers are required to re-employ eligible workers from the statutory minimum Retirement Age to the statutory maximum Re-employment Age.

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

- a. Planning and preparing employees for re-employment
 - i. Career planning and training
 - ii. Identifying eligible employees for re-employment
 - iii. Re-employment consultation
 - iv. Job arrangements for re-employment
- b. The re-employment contract
 - i. Offer of re-employment
 - ii. Duration of re-employment
 - iii. Wages and medical and other benefits
 - iv. Termination with notice
- c. Recognising the contributions of re-employed employees
- d. Assistance for eligible employees whom employers cannot re-employ
 - i. Re-employment by another employer
 - ii. Employment Assistance Payment (EAP)

Planning and preparing employees for re-employment

6. Employers, in consultation with the unions, are encouraged to take a long-term view in planning and preparing employees for re-employment, including identifying suitable training opportunities. 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.

Career Planning and Training

7. Employers are encouraged to adopt a forward-looking approach in guiding employees on their career development at various age milestones. For example, conversations with mature employees (around age 45) can be centred on their future career plans and potential training and support from companies, while those with senior employees (around age 55) can focus on relevant skills and training needed for re-employment.

Identifying eligible employees for re-employment

8. 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 working³ and whose performance are assessed to be satisfactory or above.

Re-employment consultation

- 9. In the lead up to re-employment, 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 8, employers should inform them about the need to improve their performance at this stage.
- 10. To facilitate the re-employment of older employees, employers are also encouraged to build more age-friendly workplaces by embarking on job-redesign to effect organisation-wide and systems-level changes, so as to increase the number of older workers who can perform the job and extend upwards the age at which workers can do a job.

Job arrangements for re-employment

- 11. 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.
- 12. 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

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³ Medically fit to continue working in any suitable role, and not just in the existing role.

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.

13. On their part, employees should keep an open mind about the reemployment 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

14. The re-employment contract should allow employers flexibility in reemploying 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

- 15. 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.
- 16. 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.
- 17. Employees who continue to be employed beyond the statutory minimum Retirement Age or contractual retirement age⁴ (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 prevailing statutory minimum Retirement Age⁵. At any time before these employees reach the

⁴ Contractual retirement age refers to the retirement age adopted by employers which is higher than the statutory minimum Retirement Age, and documented in relevant employment documents.

⁵ The statutory minimum Retirement Age is 62 up to 30 June 2022, and will be increased to 63 from 1 July 2022 onwards.

prevailing statutory maximum Re-employment Age ⁶, employers may renegotiate 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 supporting productive longevity.

Duration of re-employment

18. To provide greater certainty for employees, employers should offer them 5-year re-employment contracts, up to the prevailing statutory maximum Re-employment Age. Alternatively, employers could re-employ employees on a term contract of at least one year, renewable up to the prevailing statutory maximum Re-employment Age, so long as the employee continues to meet the eligibility criteria in paragraph 8.

Wages and medical and other benefits

19. Employers and employees are encouraged to be flexible in negotiating reemployment 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 lower-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.

- 20. 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.
- 21. 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. These principles would also apply to employers who are re-employing their employees on a part-time basis⁷, bearing in mind any needed pro-ration based on

⁶ The statutory maximum Re-employment Age is 67 up to 30 June 2022, and will be increased to 68 from 1 July 2022 onwards.

⁷ Part-time re-employment is aligned with the Employment Act definition, i.e. < 35 hours

the number of hours worked per week relative to a full-time employee in the organisation.

Wages

- 22. Upon re-employment, any wage adjustment should be based on reasonable factors such as productivity, duties and responsibilities and wage system⁸; 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.
- 23. Employers are discouraged from making wage adjustments if there is no seniority-based element in their wage system.
- 24. Employers may adapt these principles to suit their particular circumstances⁹.

Medical benefits

- 25. 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;

⁸ In making any wage adjustment, employers should also take into account any earlier reduction made when an employee attained 60 years of age.

⁹ 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 22(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.

c. Restructure the existing medical benefits, and provide additional MediSave contributions or other flexible benefits instead, which can be used to pay for the employee's MediShield Life or Integrated Shield Plan premiums (if relevant). For employers, this helps manage healthcare costs by providing stability and predictability. For employees, this helps them build up their Medisave Accounts and accrue medical benefits post-employment.

Leave entitlement and other benefits

- 26. 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.
- 27. 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

28. 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

- 29. 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.

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

Assisting eligible employees whom employers are unable to re-employ

- 31. 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.
- 32. 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 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

- 33. Two conditions must be fulfilled before the employer (E1) can transfer his re-employment obligations ¹⁰ for an eligible employee to another employer (E2):
 - a. The new employer (E2) must agree to take over the prevailing reemployment 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).

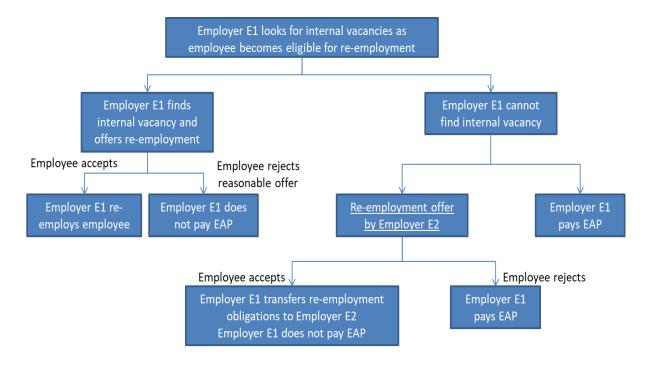
The employee is not obliged to accept a re-employment offer by the new employer (E2). If the employee turns down the re-employment offer by the new employer (E2), he is entitled to EAP from his present employer (E1).

34. The prevailing re-employment obligations to be transferred should be listed in a consent form signed by the present employer (E1), new employer (E2)

 $^{^{10}}$ 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.

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.

- 35. 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 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.
- 36. The options available to employers with an employee becoming eligible for re-employment are summarised in the chart below:



Employment Assistance Payment (EAP)

- 37. 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 salary¹¹.
 - b. There should be a minimum EAP amount to help the lower-wage workers as they may have greater difficulty seeking alternative

¹¹ The EAP amount should be computed based on gross rate of pay as defined in the Employment Act.

- employment if they are not re-employed. A minimum EAP amount of \$5.500 could be considered¹².
- 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 considered¹³.
- d. To take into account the employer's obligation to re-employ eligible employees up to the prevailing statutory maximum Re-employment Age, the EAP should decrease over time as this obligation diminishes as the employee approaches this age. Accordingly, employers who are unable to offer re-employment to employees who have been reemployed for at least 30 months since the prevailing statutory minimum Retirement Age, could consider offering a lower EAP amount of 2 months of salary (subject to a minimum EAP of \$3,500 and a maximum EAP of \$7,500)¹⁴.
- e. For employees nearing the prevailing statutory maximum Reemployment Age, the amount of EAP should not be greater than the salary payable for the remaining period of employment up to this age.
- For part-time employees, the maximum and minimum EAP quantum could 38. be pro-rated based on the number of hours the part-time employee works per week relative to a full-time employee in the organisation.
- Where appropriate the employer and its union could consult and discuss 39. the EAP amounts.
- 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.

¹² From 1 July 2022, a minimum EAP amount of \$6,250 could be considered.

¹³ From 1 July 2022, a cap of \$14,750 could be considered.

¹⁴ From 1 Jul 2022, employers who are unable to offer re-employment to employees who have been reemployed for at least 30 months since the prevailing statutory minimum Retirement Age, could consider offering a lower EAP amount of 2 months of salary (subject to a minimum EAP of \$4,000 and a maximum EAP of \$8,500).

- 41. Employees who are recruited at the age of 55 or above are exempted from the prevailing statutory minimum Retirement Age. Notwithstanding this, employers must offer re-employment to such employees who have at least 3 years of service 15 upon reaching the prevailing statutory minimum Retirement Age if they meet the eligibility criteria for re-employment. Similarly, employers must 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 prevailing statutory minimum Retirement Age, or (ii) they have less than 3 years of service at the prevailing statutory minimum Retirement Age. For such employees, employers could also consider granting an ex-gratia payment, taking into account the employee's length of service and contributions.
- 42. 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.
- 43. Tripartite partners encourage employers to raise their internal retirement and re-employment ages¹⁶ above the statutory requirements. For such progressive employers who wish to do so, they should ensure that these ages are clearly documented in relevant employment documents (e.g. employment contract, Collective Agreement, the employer's human resource policy), as well as remedies available to the employee in the event of a dispute.

Conclusion

- 44. Our ageing workforce presents challenges and opportunities. By setting out the roadmap for the next decade, the Workgroup's recommendations will enable older workers to thrive in the future economy. We will maximise their work potential, and prepare them for meaningful careers and productive lives. Employers can continue to harness the skills and experience of an expanding pool of older workers.
- 45. Achieving productive longevity will take joint efforts. Employers are urged to implement the guidelines and the other recommendations of the Workgroup to redesign their training, jobs and careers around the abilities and strengths of older

¹⁶ This refers to the retirement and re-employment ages adopted by employers which is higher than the statutory minimum Retirement Age and statutory maximum Re-employment age.

¹⁵ This will subsequently change to 2 years of service from 1 Jul 2022.

workers. On their part, employees are encouraged to adopt a flexible mindset and be ready to adapt, learn new things and take on different responsibilities, so that they can continue to contribute to their organisations and earn a regular income.

Frequently Asked Questions on the Tripartite Guidelines on the Reemployment of Older Employees

1. 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 re-employment offers.

We strongly encourage employers to adopt the policies and practices in the Tripartite Guidelines ahead of the new re-employment age taking effect.

2. 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 reemployment 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.

3. Is it acceptable for employers to retire their employees prior to the statutory minimum retirement age?

Under the Retirement and Re-employment Act, employers are prohibited from retiring their employees on grounds of age before the statutory minimum retirement age, currently at 62 years. Such dismissals are considered unlawful. MOM will not hesitate to take enforcement action against employers who unlawfully dismiss their employees on grounds of age.

4. Under what circumstances can the offer of part-time reemployment be considered as fulfilling an employer's reemployment obligations?

Employers who offer part-time re-employment to employees already on part-time arrangements would have fulfilled their re-employment obligation, and would not be liable to pay the Employment Assistance Payment (EAP) if the employee turns down the offer.

Employers may re-employ full-time employees on part-time arrangements provided there is mutual agreement. If full-time employees request to be re-employed on a part-time basis but the employer is only able to offer a full-time position, the employer is considered to have fulfilled his obligations and is not liable to pay EAP if the employee turns down the offer.

For more guidelines on scoping the terms and benefits of the reemployment offer, please refer to paras 22 - 28 of the Tripartite Guidelines.

5. 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.

6. 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.

If they do, employers could send them for medical check-ups on a case by case basis, without having to send all eligible employees in the same job for medical check-ups. Employers could also send reemployee employees for medical check-ups if it is a job requirement that is applied to other employees with that job scope.

7. How does providing medical benefits in the form of additional Medisave contributions help employers and re-employed employees?

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.

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.

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.

8. What could employees do if they feel that they have been unfairly denied of re-employment or the re-employment offer is unreasonable?

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.

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

9. How were the revised Employment Assistance Payment (EAP) amounts determined?

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.

10. Given the TWG's recommendations, employees born between 1 Jul 1955 and 30 Jun 1960 will have Retirement Age (RA) 62 and Re-employment Age (REA) 68 when the changes to RA and REA take effect on 1 Jul 2022, as they are not eligible for the increase of RA to 63, but are eligible for the increase of REA to 68. What will be the EAP due to them?

Before the proposed changes to RA and REA take effect on 1 Jul 2022, the existing EAP formula (since 1 Jul 2017) will apply to all employees. From 1 Jul 2022, the new EAP framework as recommended by the TWG-OW will apply to all employees aged 63 to 68.

For the transitional cohort of employees born between 1 Jul 1955 and 30 Jun 1960, their EAP age ranges will be 62 to <65 and 65 to <68. Their EAP amounts will follow the prevailing EAP at that point. See table below.

This is consistent with the current approach where the re-employment period is divided into two equal halves for EAP computation, and fair to both employers and employees.

For employees born between 1 Jul 1955 and 30 Jun 1960

	EAP		EAP	
	(valid till 30 Jun 2022)		(with effect from 1 Jul 2022)	
Age when EAP is	62 to	64.5 to	62 to <65	65 to <68
triggered	<64.5	<67		
No. of months of	3.5	2	3.5	2
salary payable				
Maximum EAP	\$13,000	\$7,500	\$14,750	\$8,500
amount				
Minimum EAP	\$5,500	\$3,500	\$6,250	\$4,000
amount				

11. What support is available to companies who want to implement re-employment?

The Singapore Government supports senior employment, including the re-employment of senior workers, by providing wage offsets to employers who hire senior Singaporean workers aged 55 and above. For 2020, this will be via the Special Employment Credit and the Additional Special Employment Credit which will provide additional wage offsets to companies that hire senior workers above age 67. For 2021-2022, this will be via the new Senior Employment Credit. More support will be given for the older age bands.

To support progressive companies that are willing and able to implement a higher retirement age and re-employment age ahead of legislative changes, the Government had announced the Senior Worker Early Adopter Grant (SW EAG) earlier this year. The SW EAG provides companies up to \$250,000 to raise their company's own retirement and re-employment ages above minimum statutory requirements. Application for the grant would commence from 1 Jul 2020. More information can be found at https://www.mom.gov.sg/about-us/cos2020.