

Understanding Flexible Working Arrangements: Key Insights

Following amendments to the Employment Act 1955 (“**EA 1955**”), which came into force on 1 January 2023, employees are now entitled to request Flexible Working Arrangements (“**FWA**”). These arrangements allow employees to vary their hours of work, days of work, or place of work under Section 60P of the EA 1955.

Section 60Q of the EA 1955 requires that an employee’s application for FWA must be in writing, using a form and manner determined by the Director General of Labour. On 5 December 2024, the Ministry of Human Resources introduced the Guidelines for Implementation of Flexible Work Arrangements (“**Guidelines**”), which include a sample application form for FWA. The Guidelines are available [here](#).

These Guidelines serve as a practical roadmap for both employers and employees. It covers critical elements such as categorisation, implementation methods, application procedures, and the responsibilities of both parties.

This article highlights the key points one should note under the EA 1955 and the Guidelines regarding FWA.

Who can apply for FWA?

The EA 1955 applies to all employees, including probationers and confirmed employees. This suggests that probationers may also apply for FWA.

However, Section 60P of the EA 1955 provides that an employee’s eligibility to apply for FWA is subject to the contract of employment. In this connection, an employer may specify in the employment contract that probationary employees are not eligible to apply for FWA.

How should an application for FWA be made?

As per Section 60Q of the EA 1955 and the Guidelines,

- (a) The application must be in writing;
- (b) The application should include the following information:
 - (i) The type of FWA requested for (flexible hours, place, days or a combination);
 - (ii) The reason for the application, with supporting documents (e.g. a doctor’s certificate); and
 - (iii) The requested duration for the FWA, if relevant.

Employees may use the sample application form provided in the Guidelines.

To facilitate the process, employers are encouraged to create a comprehensive FWA policy that includes:

- (a) a standard FWA application form;
- (b) the authority responsible for approving FWA;
- (c) the mode of submission (e.g. through a work portal or email);
- (d) the types of FWA available;

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- (e) reasons why certain job roles may not be suitable for specific FWAs. In this regard, the Guidelines do acknowledge that not all job functions can accommodate flexible arrangements;
- (a) expectations regarding responsible use of FWA, including the mechanism of work supervision if FWA is approved;
- (b) employer's rights to revoke FWA approval for business reasons or to address any negative impact on work efficiency and productivity;
- (c) employees' responsibilities to adhere to all workplace safety and health regulations; and
- (d) any facilities or resources that will be made available to support the new working arrangement.

What should employers do upon receiving FWA applications?

1. Properly assessing employees' requests and responding within the timeline

Employers are required to respond to all FWA applications in writing within 60 days, stating whether the request has been approved or denied.

(a) Approval

If the FWA request is approved, it is prudent for the employer to inform the employees of the following:

- (i) the type or description of the FWA;
- (ii) whether the approval is permanent, temporary, or rotational;
- (iii) the commencement date and end dates, as well as the duration;
- (iv) the conditions employees must comply with;
- (v) the systems for monitoring and evaluating work performance;
- (vi) specific work expectations, including accountability, work quality, and timelines.

(b) Rejection

If an employer decides to reject an FWA application, the employer must provide clear written reasons for the rejection.

2. Reasonable Grounds for Rejecting FWA Requests

Neither the EA 1955 nor the Guideline explicitly define the acceptable grounds for rejecting an FWA application. However, guidelines from other countries, such as the United Kingdom and Singapore, provide useful references for employers.

In the UK, the Employment Rights Act 1996, alongside the Flexible Working Regulations 2014, allows an employer to reject FWA applications based on business considerations. These include additional costs, inability to meet customer demand, inability to reorganize work among existing staff or recruit additional employees, and negative impacts on quality or performance. Employers may also deny requests due to insufficient work during proposed working hours or planned structural changes.¹

Similarly, Singapore's Tripartite Guidelines on Flexible Work Arrangement Requests specify that employers may refuse FWA applications if they would lead to significant increase in cost burden, reduce productivity or output, or are impractical due to the job nature or operational constraints.² However, reasons that are not directly related to business outcomes, such as management's lack of belief in FWA, supervisor's preference for direct sight of the employee in the office and organisation's tradition, will be considered unreasonable.³

¹ Section 80G of Employment Rights Act 1996.

² Para 18 of Tripartite Guidelines on Flexible Work Arrangement Requests.

³ Para 19 of Tripartite Guidelines on Flexible Work Arrangement Requests.

Is it mandatory for employers to offer FWA?

No, neither the EA 1955 nor the Guidelines mandate that employers must offer FWAs. Employers retain the discretion to approve or reject such applications. However, employers must assess these requests fairly and provide clear reasons if a request is denied. If an employee feels the rejection is unfair and intended to drive them out of employment, they may claim constructive dismissal, contending that the employer's actions have effectively breached the employment contract.

Conclusion

FWAs are becoming increasingly important in fostering inclusive workplaces to attract and retain talent. Post-pandemic, many employers have adopted FWAs, and the introduction of the Guidelines underscores the government's push to encourage broader adoption.

Employers must communicate clearly and transparently about the FWA process to avoid potential disputes and ensure fair treatment to all employees.

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