

FAQ: Cost-Saving Measures During the COVID-19 Outbreak

for LexisNexis Resource Hub – COVID-19



As a response to the COVID-19 virus pandemic, the Malaysian Government has implemented the Movement Control Order ('MCO') from 18–31 March 2020. The MCO was later extended to 14 April 2020 and subsequently to 28 April 2020.

This is an unprecedented period shrouded with uncertainties. Many businesses are facing pressure in their business operations and have started taking measures to ensure that operations stay afloat. Some of these measures include cost-saving policies, as well as ensuring that workforces are operating at optimum level.

Aside from downsizing, what are the types of cost-saving measures that might be implemented by a business during the COVID-19 outbreak?

Effective cost-saving measures involves the company cutting non-essential costs and expenditure that does not affect the core operations of the company. This includes, among other things, expenditure on social activities, charitable donations, discretionary bonuses or incentives, and other fringe employee benefits like lifestyle allowances and clothing allowances. Employers can also look into reducing or limiting overtime hours, or hours in work in general, to reflect the downturn in business.

Can employers impose salary reductions?

For most businesses, a substantial amount of overhead expenditure comes from headcount costs, i.e. employees' salaries. The Ministry of Human Resources has issued guidelines to say that salaries of employees should be paid in full during this period.

However, salary reduction can be imposed with employees' consent. This is an option that can be considered if it is an attempt to avert more drastic actions such as retrenchment. Employee communication is key here, as employees would have to understand that voluntarily accepting a salary reduction may be for the long term good of the company as a whole and may provide job security.

What if an employee refuses to consent to a salary reduction?

An employee is entitled to reject a salary reduction. In that situation, the employer must decide whether to still impose the salary reduction unilaterally, or to maintain the employee's salary at its current rate.

Maintaining the employee's salary may appear unfair to other employees who have consented – however, if retrenchment must be implemented because the costs are not sufficiently reduced due to the rejection

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of the salary reduction, the salary base of an employee is one of the factors that can be considered in selecting employees for retrenchment. This is provided that the employee is not threatened to consent to the salary reduction or is victimised specifically because of their refusal to cooperate.

Imposing a unilateral salary reduction carries a risk of a claim of constructive dismissal or breach of contract. However, from a practical point of view, employees must also weigh the benefits of taking this approach as a constructive dismissal claim requires the employee to quit first, meaning that they will have to give up their job security in this challenging period in order to pursue a claim.

Can employers request employees to 'work from home'?

Yes. Working from home is an option implemented by most businesses in Malaysia during the MCO. Even after the MCO is lifted, employers can continue to allow employees to work from home.

Can employers put employees on unpaid leave in order to reduce salary costs during the COVID-19 outbreak and/or during the MCO period?

Unpaid leave cannot be implemented or forced without the employee's consent. The Ministry of Human Resources has also issued a guideline to employers confirming this position.

The consent of employees should therefore be obtained, and proper communication is crucial if employers want to convince employees that this option is for the long-term benefit of the company.

What about asking employees to take annual leave? Can employers do this to minimise the accrued but unutilised annual leave balances, as a measure of saving future costs?

Employees cannot be forced to take annual leave without their consent, and the same principles above apply as well when asking them to take a pay cut or unpaid leave.

Does the government provide any incentives to employers to protect job security?

Yes. The government has implemented a wage subsidy programme, which entitles an employer to receive certain incentives for each applicable employee, depending on the company's size of its workforce. An applicable employee is one whose wages do not exceed RM4,000.00 a month and who is registered and contributing to the Employment Insurance System. Employers who have a workforce of more than 200 employees will also be required to show a loss of revenue of at least 50% from January 2020. Other conditions apply and can be found at the [PERKESO website](#).

Are there any other cost-saving measures that can be implemented by employers?

Generally, employers can look towards cutting down on expenditure on smaller yet crucial items, such as reducing the use of paper by printing only when necessary, reducing air-conditioning usage, reducing the

budget for pantry food, coffee and tea, eliminating or reducing non-essential services such corporate gym memberships, and finding cheaper alternatives for existing suppliers.

While it is good to implement these measures, it is critical for employers to also analyse how much this can contribute to the overall reduction in costs, as they are unlikely to be significant.

Companies and businesses should adopt a strategic prism that must trump ad hoc urgency, as how cost decisions are managed will determine the company's long-term sustainability.

In light of the constantly changing circumstances, this is a general overview and should not be treated as legal advice. The information presented is correct to the date of its publication.

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