

# LPA ASIA NEWSLETTER

Tokyo | Shanghai | Hong Kong | Singapore

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## COVID-19: Employment support measures for Companies across Asia

While the COVID-19 pandemic affects wider society and economic activities across Asia, many companies face decreasing activities because of lockdowns imposed by authorities and are in financial difficulties. Japan, China, Hong Kong and

Singapore have implemented employment support measures to companies which are particularly vulnerable to avoid devastating impacts in the short and longer term.

### JAPAN

Japanese government and several local prefectures have implemented special measures in order to support companies limiting their costs in employment due to economic difficulties caused by the COVID-19.

#### → Japanese Employment law

According to Japanese Employment Law, in case of necessity due to emergency, disaster or unavoidable reason, the company may implement a partial activity plan to order employees to wait at homes and suspend their employment agreement. The employees will be considered as absent from work but in exchange, the company shall pay employees an absence allowance representing 60% of the average annual wage of the employee during the suspension of their employment agreement.

A company which is facing economic difficulties, and which has implemented such partial activity plan may request from the Japanese government a subsidy from unemployment insurance.

#### → COVID-19 Requirements

Due to COVID-19, Japanese government eased the requirements to claim a subsidy from unemployment insurance. **The turnover or the volume of production shall have decreased by more than 5% compared to the same month in the previous year.**

The partial activity plan shall be applicable to all employees and have to be implemented before July 2020. The company may get then 2/3 of the absence allowance paid per employee for SME and 1/2 for big companies from the insurance (with a maximum of JPY 8,330 per day per employee).

However, the current exceptional circumstances do not give rise to any easement of the conditions to terminate or dismiss an employee. Even if many companies consider that there is a Force Majeure situation due to COVID-19, termination and dismissal of their employees would remain difficult.

### CHINA [mainland]

As the COVID-19 morbidity has dropped severely since the end of March, leading to the reopening of Wuhan on 8 April 2020, China's efforts are now focused on economic support and employment preservation. However, many companies are still striving to survive and nationwide unemployment has soared to an unprecedented high, compelling local governments and municipalities to take measures. Here is an oversight.

→ **What cannot be done:** an employer cannot dismiss or request an employee to take **unpaid vacation or paid vacation** (if deducted from annual quota)

→ **What can be done:** an employer can **lay-off** employees (if there are economic grounds and subject to administrative approval), decrease **their working hour and correlatively their salary** (in case of a significant decrease in activity; refusal by employee may be valid ground for dismissal), **suspend their employment** (in case of a temporary shut-down - 100% of normal salary payable during the 1st month then salary of not less than 60-80% (depending on municipalities) of local legal minimum salary), or **temporarily share them with another employer** (under responsibility of the former).

→ **Foreign residents** who are in China and whose visa expired are entitled to stay for another 2 months after expiry. Conversely, foreign residents outside of China having a valid visa can no longer enter China due to visa suspension since 28 March (except specific authorization).

→ **Economic incentives:** various incentives have been implemented locally, such as **temporary reduction of rate of medical insurance contribution**, subsidies for vocational training for affected employees, **reimbursement of up to 50% of the unemployment insurance premium contributed in 2019** in case the employer did not dismiss any employee or very few employees during the sanitary crisis, etc. Those policies vary depending on municipalities.



### TOKYO OFFICE



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#### OUR INVOLVEMENT

- Lionel Vincent analyses the impact of COVID-19 on commercial lease and real estate in Japan [[article in French](#)].
- LPA Tokyo office's latest articles about the impact of COVID-19 on the legal practice and business in Japan are online on the French Chamber of commerce Japan (CCIFJ)'s website [[article in French](#)].



### SHANGHAI OFFICE



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#### OUR INVOLVEMENT

- Fanny Nguyen reflected on the forthcoming impediment to western economies of the outbreak of COVID-19 in the PRC [[article in French](#)]
- Fanny Nguyen and Hubert Bazin analyzed the impact of COVID-19 on real estate market in the PRC [[article in French](#)]

## HONG KONG

### → Government Relief Measures

In an effort to help employers retain employees, the Hong Kong Government has announced an Employment Support Scheme ("ESS") of about HKD 81 billion, the key features of which are:

- all employers who have been making MPF contributions or have set up ORSO for employees may apply to a wage subsidy (except for the Hong Kong Government, statutory bodies and other bodies on the exclusion list);
- employers will have to undertake not to implement redundancies during the subsidy period;
- the subsidy is calculated on the basis of 50% of the employee's monthly wage (capped at HKD 18,000 per month per employee) for a period of 6 months;
- the payment of the subsidy is to be made in 2 tranches: application for the first tranche is expected to start before the end of May 2020 with payment to be made in June 2020;
- self-employed persons may be eligible for a one-off lump sum subsidy of HKD 7,500 if they have made MPF contributions in the past 15 months;
- the Government stated it will publish details of employers who are provided with the ESS subsidy.

### → Hong Kong Employment Law

The potential impact of the ESS will depend on the terms and scope of the undertakings to be given by the employers. Employers who may consider dismissing their employees should be aware of the following provisions:

- dismissed employees may not be selected on discriminatory grounds;
- employees are in certain circumstances (e.g. pregnancy, illness) protected against dismissal;
- mandatory payments to dismissed employees depend on their length and terms of service;
- variations in terms of employment such as reduction of pay, reduced working hours, unpaid leave etc. require the employee's consent unless the employer can show a reasonable ground for the variation;
- employers may ask employees to take annual leave on specified times subject to 14 days' notice.

## SINGAPORE

As a result of COVID-19 pandemic, many businesses are unable to operate or can only operate at a much-reduced level. As Singapore's Government is traditionally reluctant to interfere in the decisions of employers related to their workforce management, so far there has been no specific regulations implemented to forbid dismissal or re-trenchment of employees.

### → Employment Support Measures in Singapore

Instead, since March 2020, the Government has implemented employment support for companies to help preserve their capacity and capabilities during this salient point in time, notably several tax incentives and financial facilities.

Among the different measures, the Jobs Support Scheme ("JSS") provides wage support to employers by co-funding between 25% to 75% of their worker's salary for the first \$4,600 of their gross monthly wage and is available for every Singaporean Citizen or Permanent Resident under employment during the qualifying months.

The Government has also announced a Foreign Workers Levy waiver which will be due in April 2020 to help firms cut costs and improve their cashflow. Employers will also receive a one-off Foreign Workers Levy rebate of SGD 750 for each work permit or S Pass holder, based on previous levies in 2020.

The scheme as a whole has been extended for two more quarters till the end of the year. Firms will receive three payout tranches, in May, July and October respectively.

### → Support Measures in Practice

With the implementation of the new support scheme, the Ministry of Manpower may expect employers to refrain from implementing wage and job cuts, unless it is a measure of last resort. In practice, however, we note that companies are still dismissing employees, freezing salaries, cancelling bonuses, or reducing work hours and remuneration.



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### OUR INVOLVEMENT

- Nicolas Vanderchmitt was invited to speak on [BFM Business](#) (China Eco program) regarding Hong Kong's current place in the business community in China.
- Nicolas Vanderchmitt analyses the impact of COVID-19 on real estate in Hong Kong [[Immoweek article in French](#)].
- Marie-Gabrielle du Bourblanc, Sandra Tran and Victoire de Castelneau held a conference with ESCP on the following topic: "Is Hong Kong still attractive to invest and operate a business in Mainland China"



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### OUR INVOLVEMENT

- LPA Singapore, as foreign counsel, in coordination with LPA-CGR, has advised Singapore Holding of the EDHEC Endowment Funds (SHEEF), owned by the EDHEC Foundation, on its transfer of control of Scientific Beta to SGX, the Singapore Stock Exchange, currently valued at 200 million euros.
- LPA Singapore latest publications on LinkedIn regarding COVID-19 regulations in Singapore: [click here](#) and [here](#).