

**TRIPARTITE GUIDELINES
ON EXTENDING THE SCOPE OF UNION REPRESENTATION FOR
EXECUTIVES
(Updated March 2017)**

Introduction

1. The Industrial Relations Act was amended in 2002 to introduce limited representation, allowing rank-and-file unions to represent executives (except senior management and certain categories of executives) on certain industrial matters on an individual basis.
2. Since then, there have been more executives in the workforce which now form almost a third of the workforce. The Industrial Relations Act was therefore amended in 2015 to provide more scope for union representation of executives.
3. To guide employers and unions, the tripartite partners have issued the following set of Tripartite Guidelines on Extending the Scope of Union Representation for Executives. This set of Tripartite Guidelines covers the eligibility of executives for collective representation, union membership and leadership as well as representation of executives by rank-and-file unions at the workplace. These guidelines are arrived at after consulting employers and unions across different industries.

Eligibility of executives for collective representation

4. This section deals with the eligibility of executives for collective representation by rank-and-file unions.

Criteria

5. To avoid conflict of interest and the undermining of management effectiveness, executives with the following responsibilities should be excluded from representation by the unions. This refers to an employee who:
 - a. is in a senior management position or who:
 - has control and supervision of major business operations;
 - is accountable for operational performance;
 - does the planning of business policies and strategies; and
 - provides leadership to other employees;
 - b. has decision making powers on any industrial matter including the employment, termination of employment, promotion, transfer, reward or discipline of other employees;

- c. represents the employer in negotiation with the union on any industrial matter;
 - d. has access to confidential information relating to the budget and finances of the employer, any industrial relations matter or the salaries and personal records of other employees; or
 - e. is in a role which may give rise to a conflict of interest if he is represented by a trade union.
6. In addition to the above, employers and unions may mutually agree to adopt the following parameters to determine the eligibility:
- a. salary level as a proxy; and/or
 - b. proportion of executives within the organisation
7. As the circumstances and structures of organisations vary, employers and unions should take them into consideration when deciding on the criteria to use in determining eligibility.

Sharing of Information

8. Employers and unions should work closely in the spirit of cooperation to reach an agreement on the issue of eligibility. To facilitate this, employers and unions could mutually share relevant information.

Disputes

9. If there is a dispute on eligibility, parties are strongly encouraged to approach the Ministry of Manpower for assistance to resolve the dispute early through conciliation. If no agreement is reached through conciliation, employers and unions shall then submit a joint application for arbitration by the Industrial Arbitration Court.

Union Membership and Leadership

10. Executives who are collectively represented by the union may stand for election and hold office, according to the union's constitution. As office bearers, they may represent the unions and engage employers in the following:
- a. collective bargaining in respect of terms and conditions affecting the rank-and-file and/or executive members; and
 - b. limited representation on an individual basis on specified matters affecting executive members.

Representation of Executives by the Union at the Workplace

11. There are various options for representation of executives, some of which are suggested below. Employers and unions will need to work out a suitable arrangement that will take into consideration specific organisational circumstances and structure. They should also openly share, discuss and understand each other's concerns and needs.

Limited Representation

12. Since the introduction of limited representation for executives in 2002, some employers may already have an understanding or agreement on the scope of representation of executives with their unions. With the introduction of the additional option of collective representation for executives, employers and unions may wish to retain the current arrangement if it continues to be relevant or mutually agree to review and adopt a new arrangement.

Memoranda of Understandings (MOUs) on eligibility

13. Employers and unions may draw up MOUs on classes of executives that can be represented by the unions.

14. The MOUs may include the following:

- a. the classes of executives eligible for limited and/or collective representation;
- b. a provision to allow employers and unions to conduct appropriate review to the MOUs;
- c. the sharing of information between employers and unions to facilitate discussion on matters relating to the representation of executives; and
- d. a provision to refer disputes to Ministry of Manpower for conciliation, in the event the disputes related to the implementation of the MOU cannot be resolved at the organisational level.

15. Where either party have disputes over eligibility for limited and/or collective representation, they can approach the Ministry of Manpower for assistance to resolve the dispute early through conciliation.

Union Recognition

16. Trade unions who have not been accorded recognition by employers and are seeking to collectively represent employees may, depending on the profile of employees, where appropriate, first seek to represent the rank-and-file employees before seeking to represent the executives.
17. Trade unions who have been accorded recognition for rank-and-file employees may approach employers for direct recognition to collectively represent executives for the class(es) of executives mutually agreed upon.
18. The employer may grant direct recognition to the trade union or request for a secret ballot to be conducted.
19. Where either party has concerns, they may approach the Ministry of Manpower for assistance.

For Assistance

20. Employers or unions who need assistance may approach SNEF, NTUC or MOM.

Singapore National Employers Federation (SNEF)
Duty Consultant, Tel: (65) 6290 7692
Email: ir@snef.org.sg

National Trades Union Congress (NTUC)
Industrial Relations Department, Tel: (65) 6213 8008
Email: ntucird@ntuc.org.sg

Ministry of Manpower (MOM)
MOM Contact Centre, Tel: (65) 6438 5122
Online Enquiry via this link (www.mom.gov.sg/feedback/)
Website: www.mom.gov.sg

Frequently Asked Questions

Eligibility Criteria	
Q1	Given that senior management and certain categories of executives are not allowed to be collectively represented by the unions, would senior professionals be eligible for collective representation?
	Senior professionals with considerable autonomy, who exercise a high degree of independent judgement and initiative, and whose work has an impact on the strategic direction of the organisation may not be suitable for collective representation. Examples of such employees include research scientists working on a cutting edge technology involving intellectual property. Executives with access to confidential information such as in-house legal counsels or those who have significant influence over the business across geographical regions should also be excluded from collective representation.
Scope of Representation	
Q2	What are the matters which the unions are able to negotiate with the employers?
	Trade unions which have been accorded recognition by employers may negotiate with the employers in relation to any industrial matters with a view to arrive at collective agreements. This however should not include the following which relates to management's prerogative under Section 18(2) of the Industrial Relations Act such as promotion, transfer, employment, termination by reason of redundancy, dismissal and reinstatement of an employee or assignment of duties.
Q3	What are the matters that will likely be included for collective representation for executives?
	The matters for collective representation will vary depending on the needs and concerns of executives, organisational circumstances and structure.