

**CONSULTATION PAPER ON PLATFORM OPERATOR AND PLATFORM  
WORKER DEFINITIONS, SUBCONTRACTING SCENARIO, AND PLATFORM  
OPERATORS' DUTIES TOWARDS PLATFORM WORKERS' SAFETY AND  
HEALTH**

*August-September 2023*

## **Disclaimer**

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## BACKGROUND

1. In November 2022, the Advisory Committee on Platform Workers (“**Advisory Committee**”) released recommendations to strengthen protections for Platform Workers in the areas of:
  - a. Ensuring adequate financial protection for Platform Workers in case of work injury:
    - i. Requiring Platform Operators to provide the same scope and level of work injury compensation as employees’ entitlement under the Work Injury Compensation Act 2019 (“**WICA**”).
    - ii. Requiring the Platform Operator that the Platform Worker was working for at the point of injury to be responsible for compensation, based on the Platform Worker’s total earnings from the platform sector (e.g., ride-hail or delivery work) in which the injury was sustained.
    - iii. Determining sector-specific definitions of when a Platform Worker is considered “at work”.
    - iv. Retaining the strengths of the current WICA regime, including the provision of work injury compensation insurance through the existing open and competitive insurance market.
  - b. Improving housing and retirement adequacy:
    - i. Aligning CPF contribution rates of Platform Operators and Platform Workers with that of employers and employees respectively; required for Platform Workers who are aged below 30 in the first year of implementation.
    - ii. Allowing older cohorts of Platform Workers who are aged 30 and above in the first year of implementation to opt in to the full CPF contribution regime.
    - iii. Requiring Platform Operators to collect Platform Workers’ CPF contributions to help workers make timely contributions.
    - iv. Phasing in the increased CPF contributions over five years, unless major economic disruption warrants a longer timeline. To ease the impact, the Government may wish to consider providing support for Platform Workers and the form this should take.
  - c. Enhancing representation:
    - i. Giving Platform Workers the right to seek formal representation, through a new representation framework designed for Platform Workers.
    - ii. Setting up a new Tripartite Workgroup on Representation for Platform Workers (“**TWG**”) to co-create the new representation framework.

The Advisory Committee’s full report is available on the MOM website (<https://www.mom.gov.sg/pwac-report>).

2. The TWG also released its recommendations in July 2023 to enhance representation for Platform Workers. The summary of recommendations covered:
  - a. The process for a Platform Worker representative body to obtain mandate to represent Platform Workers;
  - b. The scope of negotiations and formalising negotiated agreements; and
  - c. How disagreements between Platform Worker representative bodies and Platform Operators will be resolved.

The TWG's full report is available on the MOM website (<https://go.gov.sg/twg-representation-for-platform-workers-report>).

3. The Government is now seeking public views on:
  - a. The definitions of “Platform Operator” and “Platform Worker”;
  - b. Providing protections in the scenario where a Platform Operator subcontracts the work to a subcontractor who directly engages a Platform Worker to perform the work (“**subcontracting Platform Operator**”); and
  - c. Platform Operators' duties towards Platform Workers' safety and health.
4. The Advisory Committee deferred to the Government to define the terms “Platform Operator”, “Platform Worker” and “subcontracting Platform Operator”. The Advisory Committee considered that clarity on the definitions would help anchor implementation of the proposed recommendations. At the same time, the definitions needed to be sufficiently flexible to accommodate significant differences between the delivery and ride-hail sectors. Flexibility was also important for the definitions to remain relevant amidst an evolving platform ecosystem, and to be applicable to new sectors in the future if required. The Advisory Committee recommended that the Government take into account the above factors, international practice and trends, and Singapore's local context to determine the precise definitions.
5. Given that employees and self-employed persons (“**SEPs**”) enjoy protections under the Workplace Safety and Health Act, where companies are required to take reasonably practicable measures to ensure the safety and health of both their employees and SEPs they contract with, Platform Operators should similarly have duties to ensure the safety and health of the Platform Workers whom they contract with.
6. Platform Operators who meet the definition will be obliged to provide protections as per the recommendations of the Advisory Committee, and to take reasonably practicable measures to ensure the safety and health of the Platform Workers whom they contract with.
7. Following this public consultation, the Government intends to introduce new legislation to implement the Advisory Committee's recommendations for Platform Workers starting from the second half of 2024.

## PROPOSED DEFINITIONS

### Definition of Platform Operator

1. The protections are to be provided to Platform Workers in only ride-hail and delivery services. We intend to stipulate which platform services would be covered in the legislation.
2. Based on the recommendation by the Advisory Committee, and after studying international developments in defining Platform Operators<sup>1</sup>, our proposed definition of a Platform Operator is any undertaking<sup>2</sup> that meets all three prongs below:
  - a. **Prong One:** As a critical part of its business model, (i) collects data from service providers (i.e., workers) and service consumers and (ii) uses the said data to automate the matching of a worker to a service consumer.
    - I. Some examples of the data that could be collected for automated matching include ratings of the worker, number of jobs accepted or cancelled by the worker, number of hours worked, and estimated time of arrival of the worker (for ride-hailing jobs).
    - II. Matching refers to the assignment by the Platform Operator of a job requested by a service consumer to a worker, regardless of whether the Platform Operator restricts the choice of the worker to accept or reject the job. This includes the decision-making process that results in identifying which worker should be assigned the job, and the actual transmission of the assignment outcome to the worker.

Rationale: Prong One is intended to capture two distinct but related characteristics of Platform Operators. One is that they harness data to match a service consumer (e.g., passenger, person who requires delivery service) to a worker; the other is that they automate the processes for doing so. The effect of both characteristics is that Platform Operators are able to provide their matching service at scale and impact a large number of workers.

- b. **Prong Two:** Receives any form of payment, including commission, from the service consumer and/or the worker, for the service provided by the worker for the service consumer.

Rationale: The Government's intent is to cover only undertakings that provide such chargeable matching services as a business model. For example, in the context of the food delivery, if an undertaking receives payment from the listed restaurant or the end customer receiving the food, or both, the undertaking would have met this criterion.

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<sup>1</sup> The Government considered the approaches that are currently being studied in, or have been adopted by various jurisdictions relating to protections for workers in platform work or gig work, including but not limited to the European Union, Luxembourg, and Spain.

<sup>2</sup> An 'undertaking' can include an individual, a body corporate, an unincorporated body of persons or any other entity, capable of carrying out commercial or economic activities relating to goods or services.

- c. **Prong Three:** Exerts control over how the service is performed, through one or more of the following ways:
- i. Requiring the worker to adhere to rules pertaining to his conduct towards the service consumer, such as when the service is to be provided, how the service is to be provided, and quality of service;
  - ii. Limiting the ability of the worker to negotiate with the service consumer on the fee the worker receives for the service provided to the service consumer;
  - iii. Limiting the ability of the worker to establish his own consumer base for that service;
  - iv. Limiting the ability of the worker to choose his hours of work; or
  - v. Any other criteria that the Minister may prescribe in the subsidiary legislation.

Rationale: As the Advisory Committee observes, Platform Operators exert a significant level of management control on Platform Workers. Prong Three is intended to capture the fundamental aspects of control that affect the precarity of Platform Workers today, while taking into account that Platform Operators' business models can change very quickly over time.

#### Definition of Platform Worker

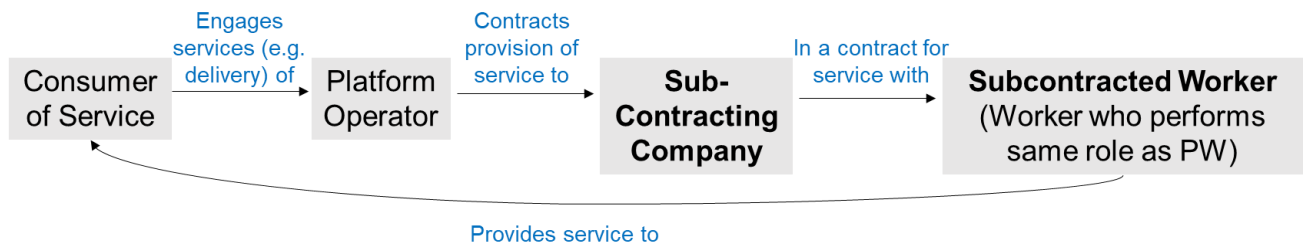
3. We intend to define a "Platform Worker" as a contract for service worker who contracts with a Platform Operator and – in line with the proposed definition of Platform Operator – experiences control exerted by the Platform Operator over how the Platform Worker performs the platform service. In a contract for service, an independent contractor is engaged for a fee to carry out an assignment or project.
4. We intend to designate Platform Worker as a new worker category distinct from employees and self-employed persons. Doing so will make it easier for Platform Workers and non-Platform Worker SEPs to understand what legal protections and support schemes they are eligible for.

#### Subcontracting Platform Operators

5. We intend for the proposed legislation to cover Platform Workers in a subcontracting scenario (see **table 1** for illustration). This would address the situation where Platform Operators engage in subcontracting arrangements, which may result in Platform Workers not being provided protections.
6. Preliminarily, we intend for the worker who has a direct contract with the subcontractor, but who may not have a direct contract with the Platform Operator, to receive the protections. We recognise that Platform Operators may not have the information on the

worker contracted by the subcontractors in order to fulfil the obligations recommended by the Advisory Committee and the TWG. In addition to this public consultation, we are consulting the industry to better understand the subcontracting scenarios to ascertain the best approach to provide workers with these protections.

**Table 1 – Illustration of a Subcontracting Scenario**



## **PLATFORM OPERATORS’ SAFETY AND HEALTH DUTIES TOWARDS PLATFORM WORKERS**

1. We intend to clarify the duties of Platform Operators to ensure the safety and health of the Platform Workers whom they contract with, under the Workplace Safety and Health Act (WSHA). This would include conducting risk assessments and implementing risk control measures such as:
  - a. Ensuring that drivers and riders are properly trained, informed, and instructed;
  - b. Setting reasonable expectations of time for job fulfilment so that Platform Workers would not need to rush;
  - c. Implementing mechanisms for members of the public to report unsafe driving or riding to Platform Operators, to manage Platform Workers’ safe behaviour; and
  - d. Developing and implementing emergency response procedures and systems such as alerting emergency contacts if a Platform Worker has been unresponsive for some time after an incident.

## **REQUEST FOR COMMENTS**

1. MOM would like to invite written comments on the above proposed definitions on Platform Operators and Platform Workers, treatment of a subcontracting scenario, as well as Platform Operators’ safety and health duties towards Platform Workers. Please submit all written comments by **6pm on 4 September 2023** via the FormSG link here: <https://go.gov.sg/pwpublicconsult>. We seek the public’s understanding that we might not be able to individually acknowledge or address every comment.
2. If you are keen to find out more about (a) the proposed definition of a Platform Operator, or (b) the obligations of a Platform Operator (including provision of work injury

protections, CPF contributions, representation, and duties to ensure the safety and health of Platform Workers), you are welcome to indicate your interest in the FormSG link.

3. MOM reserves the right to make public all or part of any written submissions made in response to this Consultation Paper and to disclose the identity of the source. Any part of the submission, which is considered by respondents to be confidential, should be separately attached as an appendix for submission through FormSG and clearly marked as “Confidential”, with justifications on the need to maintain confidentiality. MOM will take this into account in the disclosure of the information submitted.