

COVID-19

Local Responses to Global Employee Impact

April 2020

The firm or firms who have provided responses for a given jurisdiction are identified at the bottom of the relevant page. If you have any questions regarding the matters discussed in this memorandum, you may contact your regular legal contact or the listed attorneys for a specific jurisdiction.

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Introduction

The outbreak of the COVID-19 virus has had an extraordinary impact on the global workforce, and the changing employment landscape presents a number of issues to be addressed. During a survey period between March 30, 2020 and April 5, 2020, we asked lawyers around the world to provide an overview of any recent government action taken in their jurisdictions to assist employers and employees during the pandemic, and highlight other key employment considerations that employers should be mindful of as COVID-19 continues to change daily life. Responses to the survey questions illustrate the similarities and differences in how governments around the world have addressed this crisis in light of local laws and customs.

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ARGENTINA

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

The Decree 297/2020 ordered a “social, preventive and mandatory isolation” for all people and the Decree 325/2020 extended the mandatory isolation until April 12, 2020 inclusive. This means that people must remain in their homes, are not able to go to their workplaces and are not permitted to travel along routes, roads or public spaces. Inspections will be performed and if there is a violation of the isolation requirements, criminal sanctions pursuant to the Argentine Criminal Code will apply. No cultural, recreational, sporting, religious or any other type of event involving the participation of people may be held during the isolation period. The Decree 297/2020 and the Administrative Decision 429/2020 establishes certain exceptions to the mandatory isolation and the ban of movement.

Below are some new protections and additional resources that the Argentine government has enacted that are related to employment matters:

- Prohibition to dismiss (Decree 329/2020): As from 00.00 hours of March 31, 2020 dismissals without cause and dismissals due to lack or reduction of work and/or force majeure are prohibited for a 60 day term. Those dismissals that occur during the prohibition shall have no effect, and the existent labor relationships will remain in force according to its current conditions.
- Prohibition to suspend – Exception (Decree 329/2020): During the same term suspensions due to lack or reduction of work and/or force majeure, are prohibited. Suspensions in violation to the prohibition shall have no effect. However, suspensions decided according to Section 223 bis of the Labor Contract Law (“LCL”) are exempted. Said Section establishes that a monetary allowance can be agreed (in cases of lack or reduction of work for which the employer is not responsible and/or in cases of force majeure duly credited) individually or collectively –“or approved by the relevant authority”- as a compensation for the suspension of the services rendered by employees. Those allowances shall be considered as “non-remunerative allowances” and will only be subject to the contributions established under Laws No. 23,660 and 26,661.
- The reorganization of the working day in order to guarantee the continuity of production in the activities declared essential shall be considered a reasonable exercise of the authority of the employer to change working conditions (Resolution 279/2020).
- The prohibition/exemption of assisting to work does not mean having vacations, public holidays or resting days and, during the isolation, no legal or union extra payments or accessories established for “holidays” (“asueto” in Spanish) will apply unless such prohibition overlaps with a public holiday (Resolution 279/2020).
- Finally, on April 1, 2020, the Decree No. 332/2020 was published in the Official Gazette, by means of which the Argentine President establishes certain benefits, among them, postponement or reduction of the payment of employer contributions and payment of non-remunerative allowances or amounts, for employers and employees affected by the health emergency. The employers included in these benefits will be those that comply with one or more of the following requirements: (a) economic activities that are critically affected due to the geographical areas where they are carried out; and/or (b) who have a significant number of employees infected with COVID 19 or who must remain in mandatory isolation or with work exemption (e.g. risk group), or in the care of minors children); and/or (c) with significant reduction of their sales after March 20, 2020. In order to ask for any of these benefits, those activities that are an exception to the mandatory isolation must file a special request.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Employers can require employees to attend to work if the company's activity is an exception to the isolation and the employees are essential for the proper operation of the establishment (“essential employees”). However, some employees cannot be considered essential (described in the Resolution 207/2020 of the Ministry of Labor and Resolution 627/2020 of the Ministry of Health): pregnant women and people included in the “risk group” (diabetics, people with chronic respiratory diseases, heart diseases, among others). The father, mother or responsible adult in charge, whose presence at home is essential for the care of the child or adolescence, will have his/her absence from work justified while suspension of classes at schools is established (only one adult for each house). Also, employees with COVID-19, suspected of COVID-19 or who had close contact with people with COVID-19 or suspected of COVID-19, have their duty of assistance to the workplace suspended.

Essential employees can be disciplined or penalized if they do not report to work, unless their duty of assistance to the workplace is suspended or their absence is justified. This situation could lead to a termination of contract with cause. Also, regarding non-essential employees, even though they will be exempt from the duty of attending the workplace, when their tasks or other similar tasks can be carried out from home/the place of isolation, they must, within the context of contractual good faith, establish with their employer the

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conditions in which said work will be carried out. Due to this, if non-essential employees can work but they deny doing it, they can also be disciplined or penalized.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Employers must report to the Argentine health authority if they know or suspect an employee has the virus in accordance with Resolution 202/2020 of the Ministry of Labor (then health authorities will take the appropriate steps regarding the employee in question). If the employee effectively has COVID-19 (when the employee has a medical confirmation of having contracted COVID-19) the case would be included as a paid medical leave according to Section 208 of the LCL.

According to the norm, a suspected COVID-19 case is when the person has fever and one or more respiratory symptoms (cough, sore throat, or respiratory distress) and also, in recent days, has a history of travel to an "affected areas" or has been in contact with confirmed or probable cases of COVID-19.

The norm also establishes the duty to report to the Argentine health authority the following cases: "Close contact" with suspected and/or confirmed COVID-19 cases and, those who arrive in the country in the last 14 days having passed through "affected areas".

Non-essential employees are obliged to stay at home. In the case of essential personnel, if the employee can work from his/her home, employers can require them to stay home. Indeed, the Resolution 207/2020 of the Ministry of Labor recommends taking the necessary measures to reduce the presence of employees in the establishment to those indispensable for the proper operation of the company or establishment, adopting for this purpose the necessary measures for the implementation of home office modality.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

In general, a pre-employment examination is mandatory to confirm the aptitude of a person to work in a particular position. For certain activities, periodical examinations should also be performed. In relation to temperature checks, employers can carry them out, provided the employees' dignity and/or privacy are not affected. Also, checks on female staff shall be done by persons of the same sex. If the existence of discrimination is evidenced, the employee may take legal actions according to the Law against Discrimination Acts No. 23,592, pursuing the acknowledgement of the discriminatory conduct by the courts. In all cases, companies should treat the information with the highest degree of caution and confidentiality.

Although such tests could be argued to be an invasion of the employees' privacy, their objective to protect the employees' health and their safety while performing their tasks within this extraordinary circumstance would allow concluding otherwise.

In regards to data privacy and data protection, the Agency of Access to Public Information published recommendations regarding the treatment of personal data. In particular, the recommendations established, among others, that:

- Health care information is sensitive data that requires additional protection,
- To disclose the name of a patient with coronavirus, it is necessary to obtain his/her consent. In addition, to use the patient's data beyond medical treatment reasons, it is necessary to obtain his/her full, free and informed consent.
- The Federal and local health ministries are allowed to request, collect, transfer and process patient's information without the need to obtain the patient's consent.
- Health care establishments and professional are able to process or transfer among them patients' data provided that they obey the professional secret.
- The professional secret will remain even after the relationship with the patient ends.

The recommendations are not addressed to private employers that, for example, may be exempted, under certain circumstances, from requiring the consent of an employee that is COVID-19 positive in order to implement relevant measures to avoid new infections.

On another hand but related to health information, Resolution 627/2020 of the Ministry of Health, establishes a special duty of confidentiality, by which medical personnel may prescribe to workers that they do not have to attend to the workplace with the sole mention that they are included in the "risk group" without need of informing the medical condition that warrants it (Section 7 Resolution 627/2020).

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What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

As mentioned above, the information of a (a) Suspected COVID-19 case, (b) Confirmed COVID-19 case, (c) "Close contact" with suspected and/or confirmed COVID-19 cases, and (d) those who arrive from or have passed through "affected areas", must be reported to the Argentine health authority.

In all these cases (in case they are essential employees, because if not they must not attend to the workplace in any case), the norm establishes that they must remain isolated for 14 day (except in the case of confirmed cases, that it must be treated as a paid medical leave).

As such, taking into consideration the suggestions mentioned above, we understand that employers must notify employees whenever is necessary. For example, employers must notify employees in case they must remain isolated because they have been in contact with another employee that has been confirmed to have COVID-19.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

At present, the "social, preventive and mandatory isolation" is set forth until April 12, 2020. So, personal travel or activities outside work will not be an option for anyone except in the case of an emergency (cases of force majeure are one of the exceptions of the social isolation included in the Decree 297/2020).

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Employers that allow their employees to work from their homes (home office) must inform the Labor Risk Insurance Company ("ART") of the list of employees involved (last name, name and CUIL), address where the tasks will be executed and frequency (number of days and hours per week). Other than this, no official guidance/norm on special issues employers should consider regarding telecommuting in the context of the Coronavirus has been issued so far.

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AUSTRALIA

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

The Australian Government has passed various legislation to ease the financial impact of COVID-19 on employers and employees. Some of these measures include, but are not limited to:

- wage subsidy to eligible employers (*i.e.*, those who have suffered reduced turnover of more than 30%) of AUD1,500 per fortnight for each eligible employee, also applies to those who have been stood down without pay. Applies for six months – first payments made in May backdated to March – employers must register with Australian Taxation Office. Eligible employees are those employed at 1 March 2020 who are full time, part time and long-term casuals (*i.e.*, who have been engaged for at least 12 months). The full subsidy is paid to employers, and must be passed on to employees, even if employee's usual wages are less;
- if after 1 January 2020, employee is made redundant or had their working hours reduced by 20% or more, they will be granted limited access to their superannuation (pension) early;
- increased social security payments available to employees who lose their jobs or are stood down without pay (subject to eligibility criteria) – not available with the wage subsidy; and
- eligible small businesses (consolidated revenue of less than AUD\$50m) can receive a payment equal to 100% of their salary and wages tax withheld, with a maximum payment of AUD50,000 - the minimum payment is AUD10,000. The payment will be repeated again later in the year (giving a total maximum of \$100,000).

State and Territory governments have also passed their own legislation. In NSW, some changes include:

- AUD1 billion to sustain business, create new jobs and retrain employees;
- 6 month deferral of payroll tax for businesses with payrolls over \$10 million (businesses with payrolls less than AUD10 million will receive a 3 month waiver and will get another 3 month deferral); and
- changes to long service leave legislation to make it easier for employees to access their leave.

On a different but related development, several modern awards (which also govern the terms and conditions of employees in Australia in addition to legislation) have been (or will soon be) varied to allow an employer more flexibility to temporarily change employment conditions, such as reducing an employee's hours or asking them to work in different roles or enabling them to direct employees take paid annual leave. It is anticipated that more awards will be varied in the near future.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

In theory, employers can require employees to attend work in accordance with the terms of their employment contract; however, employers must take all reasonably practicable steps to ensure that the employee's workplace environment is safe. The government has implemented a range of safety measures at or related to work to stop the spread of COVID-19, including steps to ensure worker and customer hygiene, effective cleaning, physical distancing, and issuing protective personal equipment where applicable.

If an employee has a reasonable concern that carrying out particular work will expose them to a serious risk to their health and that there is an immediate or imminent exposure to a hazard, they may be able to lawfully cease work (provided they comply with relevant procedural requirements).

Health workers are likely to be expected to accept a higher degree of risk as it is their usual occupation.

To respond to employee concerns, employers would need to demonstrate they have taken reasonably practicable steps to manage the WHS concerns – *e.g.*, social distancing, sanitation etc.

Taking disciplinary action against an employee for refusing to attend work because of WHS concerns is very risky. It could lead to discrimination or adverse action (a form of victimization) claims – among others. An option that may be available is not paying employees because they are refusing to provide their services – however, if they have a legitimate concern that working will expose them to a serious risk to their health, this may not be possible.

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What must employers do when they know or suspect an employee has the virus?

- a. Can employers require employees to stay home?
- b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?
- c. Are employers able to/required to notify other employees?

The Australian Government has issued government orders that require any individual who has been diagnosed with the COVID-19 (or is at risk of being diagnosed) to self-isolate at home for 14 days. Employees should stay at home if they know or suspect they have COVID-19.

An employer can ask for medical information or take an employee's temperature if they reasonably suspect employees have COVID-19. However, whether an employee has COVID-19 is sensitive health information that is potentially regulated by Australian privacy laws. The best approach is for employers to obtain the employee's consent to access or disclose this information.

The extent to which information about an employee diagnosed with COVID-19 can be disclosed to co-workers or others who have come into contact with the person concerned requires consideration of a number of factors, including:

- whether the person has consented to the disclosure
- whether the disclosure is for the purpose of responding to a serious (and, in NSW, imminent) threat to life, health or safety of any individual, or to public health or safety.

Again, it is best to seek the employee's consent if possible.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Employers cannot limit employees' activities outside work although they can make it clear that employees are required to follow government directives. The Australian Government has issued self-isolation and quarantine orders. Everyone is required to stay at home and can only go out in limited situations, for example, to get groceries. There is also a limit of outdoor gatherings to two people with the exception of household members. If employees fail to follow these directions, it is open to the employer to refuse to allow the employee to return to work based on WHS concerns

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

The WHS laws applicable in each Australian State & Territory continue to apply when employees are required to work somewhere other than their usual workplace, such as in their home. Employers should take steps to ensure the home set up is safe, so far as is reasonably practicable.

Employees should also be reminded to comply with their employer's usual data protection / cyber security rules – including maintaining confidentiality of information etc.

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AUSTRIA

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

The Austrian Government introduced several measures to help employers and employees manage the pandemic situation:

- “Corona”-short-time work:
 - In case of economic difficulties related to COVID-19, short-time work subsidies can be applied for at the Labour Market Authority (“Arbeitsmarktservice”- AMS) for three months (an extension for a further three months is possible);
 - Reduction of average working time down to 10% during short-time work. Reduction to 0 hours possible for a certain time as long average of at least 10% is met;
 - Short-time work remuneration amounts up to 80-90% of the employee’s net remuneration (the subsidy is capped at EUR 5,370 gross);
 - Short-time work subsidy also includes the employer’s social security contributions;
 - Restrictions regarding termination rights apply
- Special care time:
 - If schools or kindergartens are closed due to authority measures, the employer may grant special care time to its employees. Special care time is limited to those employees (i) who are not necessary for the continuity of business operations, (ii) who have no further entitlement for absence of work due to child care and (iii) who have to take care of their children below age 14;
 - Special care time also applies to those employees that have to take care of disabled persons if facilities for disabled persons are also closed due to authority measures;
 - Special care time can be granted up to three weeks from the beginning of the official closure of schools/kindergartens/disabled persons facilities. The employer is entitled to compensation by the Austrian government of 1/3 of the remuneration paid to employees during special care time;
 - Deadline for application: The claim for compensation must be submitted to the federal accounting agency within six weeks from the day the authority measures (closure of schools/kindergartens) are lifted
- Works councils, shop agreements and termination protection:
 - Extension of mandate for works councils that would lapse between 16 March 2020 and 30 April 2020, until the new works council has been constituted after 30 April 2020;
 - Shop agreements for corona-short-time-work can stipulate regulations for consumption of holiday entitlements or time-credits;
 - Suspension of deadline for the challenge of ordinary terminations or dismissals until 30 April 2020
- Employment contracts:
 - Stipulation that certain governmental measures are not a force majeure with regards to employment relationships;
 - If the employer is affected by governmental orders related to the COVID-19 crisis, the employer may request employees to consummate holiday entitlements or time-credits;
 - Suspension of deadlines for the enforcement of entitlements until 30 April 2020

Can employers require employees to attend work? Can they be disciplined or penalized if they don’t report to work?

Yes, employers can require employees to attend to work. An employee’s fear of being infected does not constitute a justified reason for absence from work. If an employee fails to report for work without a justified reason, the employer is allowed to take disciplinary measures or dismiss the employee for cause. Further, the employee is generally also not entitled to continued payment of remuneration in such case.

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What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Yes, employers can require employees to stay at home. However, there are several situations to be distinguished.

If an employer knows or suspects an employee has the virus and, thus, requires the employee to stay home, the employee remains entitled to continued remuneration.

If an employee has been tested positive and is therefore ill and not able to work (and stays home), the employee remains entitled to continued remuneration. However, the employee has to provide a medical certificate.

In case employees are quarantined in accordance with the Epidemic Act (*Epidemiegesetz*) and must therefore stay home, the employer must pay the remuneration. However, in such case the law allows compensation to be sought from the state. For the sake of clarity, there is no claim for compensation (from the state) if the quarantined employee provides services by way of home office.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

Under Austrian law, employers may not perform a general medical screening of their employees (e.g. by thermometer) or ask them to provide health related documentation. Such measures would generally be considered as disproportionate.

However, during the current Corona crisis employers may ask the employee to voluntarily monitor their health (and to conduct a self-screening by taking temperature) and to report any COVID-19 typical symptoms to the employer before the employee enters the employer's premises. Please note that this is a data protection and employment law grey area.

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

Employers are generally not allowed to disclose health related information about their employees. However, depending on the circumstances the employer may be allowed to disclose the identity of an employee being diagnosed with coronavirus to other colleagues if it is relevant to protect the health of those other employees and of the general public.

Further, if there is a massive risk of infection, the employer could be required to notify the health authorities so that they can take the appropriate health measures if necessary.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Employers cannot forbid that employees travel to a certain area, even if such location is considered a so-called "risk area". If an employee is infected with the Coronavirus while on holiday in a risk area, the employer may refuse to continue to pay remuneration, because the employee caused the illness/infection by gross negligence.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Employees who telework are normally "on duty", they are simply working from home. The change in the place of work generally requires an agreement between the employer and the employee.

The employee's home office generally needs to be "fit for the purpose" (i.e. it needs to comply with occupational health and safety requirements), as the employer continues to be under the obligation to provide a safe workplace.

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BELGIUM

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

The Belgian Federal Government has implemented a temporary 'coronavirus' unemployment regime based on 'force majeure'. If an employer is faced with temporary unemployment due to the coronavirus breakout (be it as a result of a (partial) lockdown or a reduction of business), then this situation is automatically considered as 'force majeure' and increased unemployment benefits can be obtained through a simplified administrative procedure. These unemployment benefits amount to 70% of the monthly average gross salary of the employee, capped at EUR 2,754.76 and are supplemented with a top-up of EUR 5.63 per day of unemployment, both paid by the Unemployment Office (subject to 26.75% tax withholding). Under this exceptional temporary unemployment scheme, which applies until 19 April 2020 (but can be extended if the government measures are prolonged), workers can alternate between unemployment days and working days (in which, for the days worked, they will receive normal salary).

In addition, the federal government has implemented a whole series of aid measures, including, amongst others, deferments and repayment plans for social security contributions, (corporate) income tax, VAT and withholding tax. Also on the regional level, aid measures have been taken by the regional governments, such as the payment, under certain conditions, of a 'corona obstruction premium' for companies that the State has ordered to be closed (of 4,000 or 5,000 EUR).

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

The Belgian measures taken in the context of the COVID-19 crisis situation dictate that teleworking is compulsory in all non-essential companies, whatever their size. As a result, employers can still require employees to attend work if (i) it concerns functions in an essential company or if (ii) it concerns functions in a non-essential company where teleworking cannot be implemented. Regarding the latter category, employers cannot require employees to attend work if the rules of social distancing (i.e. in particular maintaining a distance of 1.5 meters between each person) cannot be guaranteed.

Please note that the employers coming within the ambit of the abovementioned categories can discipline or terminate employees according to the normal applicable rules. These rules still protect employees which are covered by a so-called protected leave (i.e. parental leave, sick leave). Belgian law also protects employees from being treated differently as compared to other employees in comparable situations.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

If the employer 'knows' that an employee is contaminated (e.g. because the employee informed the employer of that fact), then the employer must remove this employee from the workplace. However, the situation is different if the employer 'suspects' that an employee has the virus. In principle, as long as the employee does not supply a medical certificate confirming his/her incapacity for work, he/she cannot be denied access to the workplace. However, given that employers have a legal obligation to safeguard the health and safety of their (other) employees, an employee showing clear signs of illness can be asked to visit the company doctor. If the company doctor decides so or the employee refuses to undergo a medical exam by the company doctor, then the employer can require the employee to go home and stay home. The recommended approach is of course to 'ask' and/or 'advise' the employee to go home and visit a doctor.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

Simply 'asking' for medical information is allowed. Privacy restrictions only apply if the employer would also decide to 'process' such data, i.e. record, document or store it. Health data is considered to be sensitive data under the GDPR and so its processing is, in principle, prohibited. However, limited exceptions can apply, provided that strict precaution measures are taken. The Belgian Data

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Protection Authority has indicated that an employer cannot force its employees to complete a medical questionnaire, but employees should be encouraged to spontaneously report symptoms.

Also according to the Belgian Data Protection Authority, the mere screening of employees for fever, without keeping such records, is not considered as 'processing of data' and therefore is not prohibited by the GDPR. Such screenings must be executed in a non-invasive and discrete manner. However, an employee might refuse to have his/her temperature checked on the basis of privacy-related arguments, in which case it is recommended to send the employee to the company doctor. Of course, any tests must be related to COVID-19.

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

To ensure the health and safety of its employees and to prevent the spread of the coronavirus, the employer is allowed to notify the other employees that a co-worker is contaminated with the virus, provided however that the identity of the concerned person(s) is not revealed. The recommended approach is to involve the company doctor in this process and to refer the employees to him or her in case of any questions.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

In principle, no. Employers are not allowed to limit their employees' private activities, such as personal travel, not even to destinations affected by the coronavirus. Employers can, however, strongly advise against such personal travel and instruct its employees to notify it about any trips made or being planned to risky areas.

Employers can also deny a request for holidays in line with the applicable policy regarding time off. Lastly, it should be noted that the Belgian government currently prohibits all non-essential travel abroad. Travelling abroad is only allowed if an essential reason can be demonstrated, limited to (i) business travel, (ii) medical care, (iii) assistance or care to an elderly, minor, disabled or vulnerable person and/or (iv) care for animals.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Teleworking and telecommuting are only one particular modality of the work organization. Under Belgian law, this modality does not change the rights and obligations of the occasional teleworker. The employee thus continues to enjoy the same rights in terms of working conditions and is subject to the same performance standards as those for colleagues who would perform similar tasks on the company's premises.

As a result, employees are covered by the health insurance for occupational accidents if they experience injuries or illness arising out of and in the course of working at home and according to the terms and conditions of the insurance plan.

As working outside the physical boundaries of the workplace creates additional confidentiality and information security risks, employers should inform their employees that all relevant company policies, including HR policies, are still applicable when working at home.

With regard to data protection in particular, it should be noted that the GDPR in principle allows employers to process personal data in the context of an epidemic. For example, the processing of personal data may be necessary for compliance with a legal obligation to which the employer is subject such as obligations relating to health and safety at the workplace, or to the public interest, such as the control of diseases and other threats to health. Such processing should of course still be in line with the applicable data protection policy within the company, taking into account the governing GDPR obligations such as proportionality.

Additional information on COVID-19 issues in this jurisdiction

[Loyens & Loeff](#)

Links Q&A:

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<https://www.loyensloeff.com/en/en/news/news-articles/first-corona-outbreaks-in-the-benelux-dealing-with-the-risk-of-corona-at-the-workplace-in-belgium-n18546>

<https://www.loyensloeff.com/en/en/news/news-articles/coronavirus-raises-various-tax-questions-in-belgium-n18671/>

Altius

HR related topics :

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Filip Saelens, Ellen Herinckx | Loyens & Loeff

COVID-19 / Local Responses to Global Employee Impact

BOLIVIA

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

Through a Bi-ministerial Resolution due to quarantine and later, total lockdown, the Labor Ministry and Health Ministry established new labor conditions such as continuous working hours, videoconferences, establish shifts, home office, etc. specially for employees over 60, and employees who are pregnant, sick or have a preexisting disease.

Pensions funds have suspended deadlines for payment of February contributions for employers and employees, and we believe they will do so for March's contributions as well. There are also guaranteed payment of retirement funds, allowing the elderly (of one family member) to collect this payment at financial institutions.

It must be said that Bolivia's economy is made up of more than 60% informal commerce, and people depend of their daily work in order to subsist. This makes it quite difficult for them to stay home and not work for an extended period of time. The government has issued 5 economic measures to help out in this sense, including granting a bonus of around US \$60 for 1,600,000 homes, paying electricity bills for the months of April, May and June, as well as covering 50% of water bills for the same months.

Finally, banks have also suspended credit payment deadlines in order to help people without an income during this time.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

The government has issued decrees that allow companies that manufacture, produce, or distribute food, medical products, medications, hygiene and basic necessity products, or that provide basic services (water, electricity, etc.) to work 24 hours, 7 days a week in order to supply the country. If companies decided to do so, they had to ask for a special permit from the Labor Ministry. If authorization was granted, then employees can go to work outside their homes. If an employee decides not to, the company can take disciplinary actions.

What must employers do when they know or suspect an employee has the virus?

- a. Can employers require employees to stay home?
- b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?
- c. Are employers able to/required to notify other employees?

If an employee has or is suspected to have COVID-19, the employee has the obligation to inform their superior. The employer must grant permission in order for him/her to isolate themselves. The employee must later present a medical certificate to prove their condition, and take a medical leave (under Bolivian law, this leave is paid).

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Under law employers must inform their employees about the virus and basic care recommendations (ex. limiting their activities outside work). In Bolivia, the borders are closed and there is restricted ground transportation, and therefore traveling outside the country is not possible.

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BRAZIL

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

On February 6th, 2020, the Congress enacted Law 13,979 which provides that time spent on isolation or quarantine are considered justified absences from work, and therefore must be regularly paid by the employer. On March 22nd, 2020, the Presidency published Provisional Measure 927 ("PM 297"), aimed at simplifying certain requirements on individual and collective vacation, home office regime, offsetting of working hours and holidays, mandatory medical examinations and trainings, postponement of contributions to the Accrued Severance Fund ("FGTS") etc. For instance, it enables companies to determine that its employees take vacations upon reduced prior notices, of 48 hours (instead of 15 days for collective vacation and 30 days for individual vacation). On April 1st, the Presidency also published Provisional Measure 936 ("PM 936"), which provides for the possibility of reduction of salaries and working hours, as well as the suspension of employment agreements by means of individual or collective agreements (although the Supreme Court ruled recently, in a preliminary decision, that individual agreements must be ratified by the concerning Labor Union), with an "Emergency Benefit" granted by Federal Government to those employees subject to this reductions or suspensions, depending on some conditions provided by the PM.

There is, at this point, a certain degree of uncertainty over the Federal Government's position over the coronavirus crisis, as well as its recent measures. For instance, PM 927 had an article regarding the suspension of employment agreements which was revoked the day after its enactment.

PM 927 also provided that contributions to the FGTS relating to March, April and May 2020 are suspended and may be paid in 6 monthly installments as of July 2020, with no monetary indexation, penalties and other costs resulting from delayed payment. Recently, the Federal Government enacted Provisional Measure No 932, which cut by half the rate of some of the mandatory contributions to public Funds and Entities connected to the Social Security system that are levied upon the payroll or upon gross month revenues between April and June.

Additionally, PM 936 allows for the individual negotiation on salary reductions in certain situations, although the Federal Constitution expressly restricts such subject to collective negotiation. As previously mentioned, the Supreme Court ruled recently, in a preliminary decision of Unconstitutionality Action no. 6363 ("ADI 6363"), that individual agreements must be ratified by the concerning Labor Union. We cannot predict, at this point, whether this decision will be sustained by the Court in its final decision.

PM 936 authorizes that employers reduce the working hours and, proportionally, the compensation of their employees through individual or collective agreements, depending some conditions. To the extension of the reduction or suspension, the Federal Government will grant an "Emergency Benefit" for those employees, proportionally to the extension, calculated based on the unemployment benefit standards. Also, during the reduction or suspension, PM 936 authorizes employers to grant a monthly complementary allowance to the employees affected. This complementary allowance will have an indemnity nature for tax, social security and labor purposes, it will not be subject to the collection of Withholding Income Tax, Social Security Contributions and Contributions to the FGTS and it will be deductible from the company's Income Taxes.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

The decision on whether or not employees should attend and/or are fit to work (based on either individual or collective scenarios) must be on charge of the employer's occupational physician (as a rule, all companies shall have a responsible occupational physician). If an employee is not infected or under quarantine, and his/her attendance to the workplace is necessary – subject to the company's discretion and medical approval – employers may apply disciplinary measures (e.g. written warnings, suspensions and even termination for cause after 30 days) and deduct the days of work from paycheck as unjustified leave.

Further, aside of being prioritized in case individual or collective vacation are granted by employer, the legislation does not create any exceptions for employees in an at-risk category or that chose to stay home for self-isolation or to take care of children due to the lockdown of schools and nurseries.

In the case of business that were on lockdown and where remote work is not a feasible alternative, employers shall seek alternatives such as vacation, suspension of employment agreements, and collective bargaining for reduction of salaries/benefits.

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What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Under the general duty of care attributed by the labor legislation to employers, yes. However, rather than requiring employees who are suspected to be infected or that tested positive for COVID-19 to stay home, employers shall request its employees to undergo a medical examination by its occupational physician or request the occupational physician to verify the employee's medical notice, if any. Such professional is competent to determine whether the employee is fit to work or not. There are grounds to request that asymptomatic employees remain working from home, if remote work is a feasible alternative.

In the case of employees deemed unable to work by the occupational physician due to illness, employers will be responsible for paying their salary during the 15 first days of leave. After that period, the employer must refer the employee to the Social Security ("INSS"), so the employee may start receiving statutory sick leave payment borne by such body.

Moreover, per PM 936, employers and employees can agree to suspend employment agreements during the public calamity, as explained above.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

Not the employer, but it's occupational physician, at his/her discretion.

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

Not under the law, but our recommendation is to strictly follow the company's occupational physician's recommendations to prevent the contamination of other employees. Regardless of PM 927 stating that COVID-19 will not be considered workplace-related disease unless it is possible to evidence causation and fault by the employer, due to employers' general duty of care attributed by the labor legislation to employers, it is not possible to overlook the chances of plaintiffs being awarded indemnifications if labor claims are filed.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

No, but the employer may request that the employee inform of recent travels, and request that the employee undergo a medical examination with the company's occupational physician before returning to work.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

As part of the flexibility granted by PM 927, during the public emergency:

- The employer may direct the employee to work from a home office (i.e. predominantly work outside the employer's premises), upon a prior notice of 48 hours (written or by electronic means).
- The employer and employee have up to 30 days (as of the date the home office regime starts) to regulate the home office conditions by means of a written agreement, which shall provide for: (i) the responsibility for the acquisition, maintenance and granting of technological equipment and infrastructure necessary for the home office and (ii) reimbursement of expenses arising thereof.
- The employer may provide equipment on a loan basis and may pay for infrastructure services in which case the applicable amount does not incorporate into the employee's salary.

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- The time using apps and communication software outside the regular working hours does not constitute working hours unless otherwise provided under the written agreement. In this regard, under the Brazilian Labor Code, employees working in home office regimes are exempt from working hours control.
 - Also under the Brazilian Labor Code, employers should expressly and extensively educate employees regarding precautions to avoid work related diseases or accidents at home.

It is also necessary to confirm that employees were notified about the employer's right to monitor the use of its software and equipment, under the risk of enabling employees to seek indemnification for breach of privacy.

Domingos Fortunato, Isabel Bueno | Mattos Filho

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BULGARIA

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

The Bulgarian Government introduced several measures to help employers and employees manage the pandemic situation. Rules related to individual employment contracts generally aim at providing more flexibility to the parties during the course of the emergency situation.

According to these rules in the period of emergency:

- employers are allowed to unilaterally (without employee consent) order home-office and remote working;
- employers are allowed to unilaterally provide employees with up to half of their annual paid leave;
- employers are allowed to unilaterally introduce part-time work for all employees or only for employees of certain departments (resulting in reducing the salaries);
- employers are allowed to suspend the work of the whole undertaking (or part of it) or of individual employees for the whole period of the emergency state (or for part of it).
- in case the work is suspended (with an order by the employer or by the state authorities), employers are allowed to unilaterally provide the entire paid annual leave of the employees concerned;
- employers must approve requests for paid or unpaid leave if filed by certain categories of protected employees (e.g. pregnant employees or employees in an advanced stage of an in vitro treatment, underaged employees, employees with a permanent disability of at least 50% etc.).

In addition, on 30 March 2020 the Council of Ministers adopted a decree on the requirements and procedures for providing financial aid to employers. If the employers meet the set criteria, the National Social Security Institute will transfer to these employers 60% of the social security income of the insured employees for January 2020 during the validity of the law on the emergency state, but for a period not exceeding three months. The employer is however obliged to pay the employees their full remuneration (i.e. the employer must pay the remaining 40% of the remuneration from their own funds). In case of part-time, the state aid is proportionate to the not worked hours.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Yes, generally the employers can require employees to attend to work. An employee's fear of being infected does not constitute a justified reason for absence from work. However, the employee is allowed to refuse to perform his/her work when a serious and imminent danger to his/her life and health arises. In such case, the employee is still entitled to his/her salary.

If an employee fails to report for work without a justified reason for at least two consecutive days, the employer is allowed to take disciplinary measures or dismiss the employee for cause.

If an employee cannot report to work due to the childcare duties or unavoidable external reasons (such as quarantines) these are generally regarded as absence for justified reasons and are subject to the social security legislation as typically the employee receives a sick leave document for these cases. If the reason for the absence qualifies as a disaster, the employer needs to pay 50% of the employee's salary for the period of the absence but not less than 75% of the minimum salary for the country.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Yes, generally employers can require employees to stay at home and (i) perform work from home office or (ii) if they show symptoms and are not able to work, ask for a medical certificate from the doctor and receive social security benefits.

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What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

Although no explicit guidelines have been issued by the Bulgarian Data Protection Authority which prohibit such measures, it is advisable that employers refrain from general screening of their employees (e.g. by thermometer) or ask them to provide health related documentation. Due to the sensitivity of health data, there is a high risk that such measures would be considered as disproportionate. Nevertheless, in cases of reasonable suspicion (e.g. symptoms, contact with a sick person, travel to a high-risk area, etc.), employers may order an extraordinary medical examination of the employee, but it must be carried out by the occupational physician or another healthcare professional.

Given the current pandemic, employers are entitled to order employees to notify a designated person at the employer or the occupational physician, if it is assumed that they have been exposed to the coronavirus (e.g. meeting an infected person). Employers are allowed to record employees' personal data related to such notification, subject to observing the principle of data minimisation (i.e. a simple yes/no answer as to whether the employee has recently had a contact with a coronavirus infected person should suffice).

For the purposes of risk-assessment, employers may also ask employees to fill out a questionnaire about recent travels to high risk areas. A list of high-risk countries has been published on the webpage of the Ministry of Health (the information is being updated on a regular basis).

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

Employers are generally not allowed to disclose health related information about their employees. However, depending on the circumstances the employer may be allowed to disclose the identity of an employee being diagnosed with coronavirus to other colleagues if it is relevant to protect the health of those other employees. For example, if the employee has worked from home for the last 14 days and has not contacted colleagues or clients since then, disclosure of this employee's identity by their employer might not be justified. On the other hand, if the employee was at their workplace and had contact with colleagues, the latter should be notified, subject to confidentiality and prior notification of the sick employee.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Employers can generally only discourage such activities and/or inform employees about the associated risks. Due to the extraordinary pandemic situation, employers may ask employees to refrain from travelling to certain areas, which have been categorized as high-risk areas by the Ministry of Health. The employer can require employees travelling to high-risk areas to refrain from coming to their workplace and instead to work from home for a quarantine period. For the sake of completeness, it should be noted that the Ministry of Health has ordered 14-day quarantine for any person arriving from a certain high risk areas, thus in these cases staying at home is also mandatory due to the state order (information on current high-risk areas could be found on the website of the Ministry of Health).

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Employers are generally required to make sure that the home office is "fit for purpose" (i.e., it is compliant with health-and-safety law requirements) as the employer continues to be under an obligation to provide a safe workplace.

If a home office is ordered, employers are required to regulate the matters related to the technical and work equipment in the order.

Regardless of the work mode (from the office or from home), the employers must supplement their workplaces risk assessment (prepared by the employer with the participation of the occupational health service, which each employer should have) with by the new risks stemming from COVID-19 and, accordingly, with particular organisational and technical measures to mitigate these risks.

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CANADA

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

Federal and provincial governments have enacted or announced several measures in this regard. The federal government has announced the following:

- A 75% wage subsidy for up to three months, retroactive to March 15, 2020.
- The Canada Emergency Business Account which will provide guaranteed interest-free loans of up to \$40,000 to small businesses and not-for profits, to help cover operating costs during a period where revenues have been temporarily reduced. The federal government will also forgive 25% of the loan (up to \$10,000) for organizations who repay the balance of the loan on or before December 31, 2020.
- The Canada Emergency Response Benefit, which will provide \$2,000 per month for up to 16 weeks for workers who cease working and lose their income for a variety of reasons relating to the COVID-19 pandemic.
- The maximum duration of work-sharing agreements is extended from 38 to 76 weeks.

Provincial governments have announced the following in respect of this question:

- Provincial income support benefits include Alberta's Emergency Isolation Support benefit, BC's Emergency Benefit for Workers, Quebec's Temporary Aid for Workers Program, and Ontario's one-time payment for parents of children affected by school and daycare closures.
- Ontario and Quebec ordered the closure of all non-essential businesses until April 8, 2020 and April 13, 2020, respectively, with the possibility of an extension. The enacting legislation in both jurisdictions provides for serious penalties (including against individual officers and directors of a corporation) for breaching the orders.
- Deferrals on premium payments to workers compensation programs have been announced in several jurisdictions.
- Ontario, Alberta, British Columbia and Quebec have announced that employees affected by COVID-19, including those who are required to self-isolate or care for a child or dependent who is required to self-isolate, are entitled to an unpaid, job-protected leave.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Occupational Health and Safety legislation in most provinces permits employees to refuse to work if the workplace is unsafe. In certain provinces, such as Ontario, protected leaves recently enacted in response to COVID arguably permit employees to stay home if they consider the risk of COVID to their health and safety to be too great, in light of information published by public health authorities. Generally, across Canada, arbitrators are unlikely to uphold discipline during these extraordinary times, provided the absenteeism was rationalized by genuine health concerns.

In addition, most provinces have anti-discrimination statutes that protect against discrimination on the basis of disability and family status. Individuals that, for example, are immunocompromised due to a disability, or who must care for a child now that schools are closed, cannot be singled out for termination or temporary layoff first due to their protected characteristic.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Occupational Health and Safety legislation in most provinces imposes a duty on employers to take reasonable measures to protect the health and safety of their employees. As such, and in line with directions from public health authorities, employers may require employees to stay home. As noted above, special job-protected leaves have been enacted to facilitate this necessity.

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What must employers do when they know or suspect an employee has the virus?

- b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

While identifying risks is important, employers must ensure that they are complying with all applicable privacy and human rights laws. Employers should collect information required for business continuity planning in the least privacy-intrusive manner and take care to limit the collection of sensitive health information, obtaining consent where required. Biometric testing, such as taking temperatures, is typically seen as a very intrusive measure, and must be justified by serious risks to health and safety in the workplace.

What must employers do when they know or suspect an employee has the virus?

- c. Are employers able to/required to notify other employees?

An employer should warn employees and contractors if one of its workers tests positive for COVID-19 or receives a presumptive positive diagnosis, or is otherwise advised by public health authorities to treat himself or herself as being COVID-19 positive. However, subject to health and safety laws, employers should avoid identifying infected employees or those suspected of being infected. Certain situations may require that worker and public safety outweighs any privacy interests, and disclosure may become prudent and necessary. Employers should monitor and address any workplace stigma directed toward employees and customers based on race, colour, national or ethnic origin from affected areas.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Employers can advise against personal travel and can order employees to self-isolate after they take personal trips. Employers can also deny the use of paid time off for personal travel consistent with their policies regarding paid time off. Employers cannot generally restrict employee travel during leisure time.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Employers should update their policies on remote working and cybersecurity. Employers should pay attention to, among other issues, whether the remote worksite is safe and secure, IT and cybersecurity guidelines and protocols, attendance expectations, and who will provide and pay for equipment and technology needs.

Due to a lack of clarity regarding the various subsidies and benefits announced by the federal government to prevent mass terminations and layoffs, uncertainty remains with respect to employer obligations to participate in these programs and the specific form and content of their participation. This creates constructive dismissal risk for employers that is difficult to measure when an employer opts not to participate or to limit their participation.

Also, Canada is not an 'at-will' jurisdiction. If the temporary layoffs convert into dismissals, either because they exceed the statutory limits with respect to duration or due to successful constructive dismissal claims, the employers will be potentially faced with mass termination and significant pay in lieu of notice obligations.

Andrea York, Elizabeth Boyd | Blakes

COVID-19 / Local Responses to Global Employee Impact

CHILE

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

A new “teleworking” law was passed on March 26th, 2020, improving protection standards for all employees who work remotely, especially in connection with their working schedule, right to disconnection, use of working tools, hygiene and safety measures and collective rights, etc. The law comes into force on April 1st 2020 and grants three months to adjust and implement the requirements and formalities regulated by the law to the employees who render services already in a telework modality.

On last Friday, March 27th, 2020, the Chilean Congress approved a new law that will grant to the 60% most vulnerable families a one-time bonus of CLP 50,000 (approximately USD 60) for each dependent person.

A bill on protection of labor income is now being discussed at the Chilean Congress. The key features would be that an employee who, by order of the health authority has to stay home without the possibility of working remotely, will have his/her employment contract automatically suspended without payment of remunerations. The employer will be required to pay only the social security and the employee will be able to receive income from the unemployment insurance.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

If the employees are not under quarantine ordered by a health authority or with medical leave, they must attend to work, provided that all necessary measures to protect their health at the workplace have been taken by the employer. Therefore, unless the employee has good reason not to attend the workplace the employer would be entitled to discipline the employees for refusing to attend, following the Internal Order, Hygiene and Safety Regulation (e.g. issuing a warning letter). Terminating the employees as a disciplinary sanction should be carefully assessed on a case by case basis since it will be subject to the scrutiny (and final validation in case of a claim) by the Labor Courts.

The failure of the employer to adopt the measures indicated or ordered by the health authorities to prevent the spread of the COVID-19 in the workplace could be considered among the situations of serious and imminent risk to the life and health of employees which allows the employee to exercise its right to lawfully refuse working under Article 184 Bis of the Labor Code. As a reference, the Labor Board have ruled that measures the employers should take to protect employee's health under these circumstances, are, among others: (i) agree on different entry and exit working schedule and/or shift distribution; (ii) take measures to avoid agglomerations on working spaces; and/or (iii) limit the number of users or clients who visit the company's premises; (iv) provide the employees with protective elements according to the circumstances including provision of masks, gloves, disinfectant for hands, etc. Employers should take such other measures as recommended or directed by competent authority from time to time.

Normally, the employer should not be obliged to pay remuneration in case of shut down of schools and infant schools, but the employee's absence could be otherwise justified.

In case of the shut down of employer provided daycare, in principle the employer shall provide/arrange for another day care institution to provide the service or else pay a bonus in substitution. If the employer fails to solve the problem, it will normally be required to pay remuneration during the absence.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Yes. The health authorities and World Health Organization (WHO) have stated that employees who become ill with symptoms of COVID-19 should leave the workplace. The employer must grant the necessary leaves for the employees to take the respective medical tests.

In case of an infected employee, a medical license will be issued, and the employee will have to remain on medical leave. During this period she/ he will receive the corresponding economic and health benefits from the health insurance company (ISAPRE or FONASA). Depending on the factual circumstances, other employees who had immediate contact with the infected employee should be informed and sent to the relevant health institution for testing and will normally be ordered to quarantine subject to a medical leave as well.

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What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

Provided that the confidentiality and dignity of the employee is guaranteed, the employer may require undertake temperature tests or other control measures to assess the employee's working capacity in accordance with appropriate health authority guidelines and avoid the spread of the infection within the workplace.

Employers may not ask for additional medical information such as underlying health conditions that would make employee vulnerable. However, if an employee is diagnosed with COVID-19 or does have direct contact with a person infected by COVID-19 being suspected the infection, the employee is required to disclose this information enabling the employer to implement all appropriate safety measures to protect other employees.

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

In case of a diagnosed or suspected case of COVID-19, the employer must to implement all appropriate safety measures to protect other employees, including notify employees who may have been exposed to the virus. The employer must not disclose the identity of the infected employee.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

No. However, following the recommendations of the Government and health authorities employers may recommend that employees not engage in non-essential business travel to affected areas.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

All remote employees are covered by the workers' compensation if they suffer labor-related accidents or diseases. The employer has the obligation to inform employees about the risks to which they will be exposed while rendering services at home. The employer may not enter the place where the employee provides remote services without the employees' prior authorization.

COVID-19 and the restrictions to freedom of movement this sanitary emergency has entailed have substantially accelerated the implementation of telework by companies in Chile and worldwide. Notwithstanding the many positive aspects of having granted this job flexibility tool, these decisions ought to be necessarily accompanied by an assessment on the part of companies, as regards the degree of protection of their information, and the analysis of the unavoidable increase in the risk of being targeted by cyber-attacks. There is currently no regulatory framework in Chile that governs cybersecurity obligations of employers as regards telework, therefore, it is the responsibility of companies to be self-regulatory in these matters, and to focus efforts on investing in short- and medium-term solutions.

COVID-19 / Local Responses to Global Employee Impact

COLOMBIA

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

Yes, our Government through Decree 457 issued an order for confinement that started March 24 initially until April 12. The confinement order excluded 34 industries including among others health services. Also, the Ministry of Labor issued Decree 488 and other regulations including protections or resources to assist under the emergency:

- Possibility for employees that will receive a reduction in their salary during the COVID-19 emergency to withdraw from their private severance fund account the amounts corresponding to the reduction in their monthly income.
- Individuals unemployed that comply with certain conditions will be entitled to a government subsidy equivalent to 2 monthly minimum wages that will be paid through the family compensation fund.
- Possibility for employers to put on vacation employees with a 1-day prior notice. This possibility applies for accrued vacation days and for granting anticipated vacations.
- Labor risk entities must destine a portion of the contributions they receive specifically to: (i) promotion and prevention of COVID-19; (ii) purchase of health and safety equipment for employees directly exposed to COVID-19 assistance; and (iii) carrying out emergency activities and/or interventions.
- Order for labor inspectors for initiating investigations to companies that oblige employees to accept unpaid leaves during the emergency.
- Orders for initiating investigations against companies that allege a force majeure for suspending employment contracts.
- Orders for limiting the possibilities for obtaining a collective dismissal authorization in order to terminate employment contracts.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

No, unless the company business is excluded from the confinement order. If the company business is excluded from the confinement order the employees that performs a job positions that cannot be done from home must attend to work otherwise, they will be subject to disciplinary measures. It is possible to treat different employees according to their level of exposure and/or family obligations.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Yes, and it is mandatory for the employee to stay at home during at least 14 days. The employers must report that situation to the labor risk entity, the health entity and the Local Health Secretary.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

Yes. Even though the general rule is that medical information contains personal sensible data, employers can implement health and safety controls (i.e. temperature checks) considering that due to the current social emergency, the public interest/health must prevail. In any case, the best scenario is to obtain prior consent from employees. Also, employees are obliged to inform their employer if they had been diagnosed with COVID-19 and the employer must report that situation to the labor risk entity.

COVID-19 / Local Responses to Global Employee Impact

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

Employers should notify other employees if they have been exposed to COVID-19 in the workplace. The identification of the affected individual should be kept confidential.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Depending on the job position that may be a possibility, but a case by case analysis must be carried out. In any case due to the risk of COVID-19 in Colombia the confinement order limits the possibility for employees to travel inside and outside Colombia.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Under the emergency employees working from home can either be classified as telecommuting employees or occasional work from home employees. Under the occasional work from home modality there are no special issues and the general labor laws apply. On the other hand, telecommuting employees have a special regime established in Law 1221 of 2008. The telecommuting modality triggers the following obligations/issues for the employer:

- Must be provided with the necessary means to provide the service (i.e. computer, mouse, keyboard).
- Must provide and guarantee the maintenance of telecommuter equipment, connections, programs.
- Pay to the employees an allowance for internet and/or electricity and/or phone service.
- Request the labor risk entity a guide for prevention and action in risky situations and deliver a copy to employees.
- Include the employee's job positions within occupational health plans and programs, particularly in the Workplace Safety and Management System (SGSST).
- Establish an emergency care network in case of an accident or illness.
- Request the employees to self-declare the conditions of the workplace with the advice of the labor risk entity.
- Inspection of the workspace in order to verify the health and safety conditions of the workplace.
- Incorporate a specific chapter for telecommuting employees in the internal work regulations.
- Inform and give to the employees a copy of the company's policy on health and safety for telecommuting.
- Inform the Ministry of Labor the hiring of telecommuters.
- Telecommuting cannot be imposed by the employer; the employee must voluntarily accept.
- Fill out the affiliation and news form adopted by Resolution 3310 of 2018 and send them to the labor risk entity together with the copy of the employment agreement.

On the other hand, please be aware that on Friday, March 27th, the Decree 488, 2020 was issued, whereby the National Government established the following measures in order to promote the job retention and protect employment during the Economic, Social and Ecologic Emergency faced by the country:

- The employee who suffers a reduction of his/her monthly income will be able to withdraw a monthly amount from his/her severance account to compensate the income reduction, presenting a certificate from the employer.
- The employer is allowed to give minimum a one-day prior notice to the employee, informing the starting date of the accrued, anticipated or collective vacations.
- The Labor Risks Administrators must distribute the resources of the labor risks contributions, following these rules:
 - 5% of the contributions will be destined to prevention and promotion activities, for employees that, due to the nature of their activities, are directly exposed to the Coronavirus COVID-19 contagion.
 - 1% in favor of the Labor Risks Fund.

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- At least 10% of the 92% of the contributions total will be intended to the development of the minimum activities for protection and prevention.
- 2% for emergency and intervention activities, acquiring personal protective equipment, medical checkups, and direct intervention for Coronavirus COVID-19 related actions, in favor of the employees of their registered companies that due to the nature of their activities, are directly exposed to contagion.
- Dependent and independent employees of categories A and B, currently unemployed, that paid payroll taxes to the respective Family Compensation Fund for one year during the last 5 years, will receive an allowance of two minimum monthly legal wages, that will be granted in three monthly payments.
- There will be a suspension of the six (6) months term established by the article 36 of the Law Decree 2106, 2019, for the accreditation of the survival attest before the entities of the Social Security System.

Additional information on COVID-19 issues in this jurisdiction

<http://www.phrlegal.com/noticia/covid-19-labor-and-immigration-bulletin/?lang=en>

<http://www.phrlegal.com/noticia/covid-19-derecho-laboral-y-migratorio-decreto-488-de-2020/>

<http://www.phrlegal.com/noticia/covid-19-mandatory-isolation-in-colombia/?lang=en>

<http://www.phrlegal.com/noticia/covid-19-measures-to-control-and-mitigate-coronavirus-outbreak-in-colombia/?lang=en>

Carolina Camacho, Edwin Camargo | Posse Herrera Ruiz

COVID-19 / Local Responses to Global Employee Impact

COSTA RICA

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

The local authorities in Costa Rica have issued two new laws to help reduce the number of terminations and to economically assist the employees that were suspended or that had their work schedule and salary reduced. The regulations establish:

- Reduction of work schedules and salaries: the employers that have been impacted by the national emergency may proceed with the reduction of the work shift and salary of the employees up to 75%. An authorization must be requested before the Ministry of Labor or with an agreement before the union or employees' representation committee.
- A new law has been approved that allows that the employees that have been suspended without payment or had their salary reduced (with the corresponding authorization) may withdraw the termination saving plan (*Fondo de Capitalización Laboral*).

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Yes, employers can request the employees to continue working onsite. In the case of the high-risk population, employers are required to comply with the health requirements and accommodations (such as cleaning procedures, distance between employees, among others). If the employees fail to continue working when the employer complies with these requirements, disciplinary actions can be taken, up to the termination. If the employer does not comply, the employees can refuse to work and file a complaint before the Health Ministry.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Employers are required to ask the employee to stay home and isolate himself/herself when they know or suspect an employee has the virus. The employee is required to contact the Social Security to make a report and to take the corresponding medical test to determine if the employee tests positive.

Employers can require employees to stay home if there are valid reasons for the isolation.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

Yes, according to the emergency situation, the employer is able to ask for the medical situation of the employee to determine if preventive actions should be taken. Test can be made by the trained personnel, such as the occupational health committee. Employees without training for the test should not be doing the tests.

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

Yes, however the notification to other employees should be confidential and only directed to the employees that had contact with a confirmed or suspected case.

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Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

No.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

In Costa Rica the telecommuting law establishes that the employer is required to pay a part of the electricity bill and possible related expenses (not defined in the law). Therefore, either the employer accepts to reimburse such expenses or signs an agreement that indicates that the employee is willing to assume the costs to work remotely.

Additional information on COVID-19 issues in this jurisdiction

[Media Room about COVID-19 in Central America](#)

Juan José Montero, Randall González | BLP

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CROATIA

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

The Croatian Government introduced certain measures to help employers and employees manage the pandemic situation, *inter alia*:

- The government offers financial support to eligible employers for retention of jobs in coronavirus-affected sectors for max period of three months from the beginning of March, in the amount of up to HRK 3,250 for March and HRK 4,000 for April and May per employee per month; in addition the government offers payment of social contributions for April and May in the approx. amount of HRK 1,460;
- Delay of payment of public levies (income tax and social security contributions) for up to 3 months;
- The government supports retention of employment for persons with disabilities by ensuring the employer payment of the disabled person's minimum wage;
- Delay of payment of financial compensation for all employers who do not meet the statutory quota for employment of persons with disabilities;
- Enabling the EU funding beneficiaries to suspend or delay project implementation, delay of repayment of funds, and to acknowledge the reduced realization of planned indicators on projects due to objective new circumstances.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Yes, employers can require employees to attend to work. An employee's fear of being infected does not constitute a justified reason for absence from work. If an employee fails to report for work without a justified reason, the employer is allowed to take disciplinary measures or dismiss the employee for cause.

If an employee cannot report to work due to external circumstances which are beyond his/hers responsibility (e.g. area lockdowns, quarantines), these are regarded as absence for justified reasons. In such cases, the employees are entitled to a compensation of salary.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Yes, employers can require employees to stay at home if they know or suspect an employee has the virus. Pursuant to the Decision On Measures of Restricting of Social Gatherings, Work In Stores, Service Activities and Hosting Sports and Cultural Events rendered by the Civil Protection Authority in connection to the COVID-19 pandemic ("**Decision**"), the employers should prohibit from coming to workplaces those employees having fever, difficulties in breathing, especially cough and short breath. If an employee is isolated as a virus carrier or because of an infection in his surroundings, he/she is entitled to a salary compensation paid from the Croatian Health Insurance Fund from the first day of isolation or opening of sick leave. Exceptionally, the employee and the employer can agree that the employee works from home during the said period, in which case the employee is entitled to a full contracted salary. Inability to work in case of isolation or self-isolation cannot be a justified reason for termination of the employment contract.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

Generally, the employers may not perform a general screening of employees (eg by thermometer) or ask them to provide health related documentation. However, pursuant to the Decision, one of the obligations of all employers in Croatia is to prohibit the employees having fever, difficulties in breathing, especially cough and short breath, from coming to their workplaces. This could be understood as if the employers would, during the COVID-19 pandemic as an extraordinary situation, be authorized to request from their employees medical information or undertake to measure their body temperature.

COVID-19 / Local Responses to Global Employee Impact**What must employers do when they know or suspect an employee has the virus?****c. Are employers able to/required to notify other employees?**

Employers are generally not allowed to disclose health related information about their employees. However, depending on the circumstances the employer may be allowed to disclose the identity of an employee being diagnosed with coronavirus to other colleagues if it is relevant to protect the health of those other employees.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Employers can generally only discourage such activities and/or inform employees about the associated risks.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Employers are generally required to make sure that the home office is “fit for purpose” (i.e., it is compliant with health-and-safety law requirements), as the employer continues to be under an obligation to provide a safe workplace.

Dina Vlahov Buhin | Schoenherr

COVID-19 / Local Responses to Global Employee Impact

CZECH REPUBLIC

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

The Czech Government adopted a special scheme called "Antivirus", which is focused on providing financial support to employers. The support is provided in the form of a contribution to the paid out salaries/salary compensations of companies affected directly by the COVID-19 and/or the restrictive governmental decrees. The contribution is provided in the form of certain % (80% or 60% depending on the type of regime) of the paid out salary/salary compensation and the contribution is capped (CZK 39.000 or CZK 29.000).

If the employees are actually sick or quarantined, they are entitled to standard sick allowance paid by the employer for the first 14 days and then paid by Social Security. Furthermore, the employees who must stay at home to take care of their children under the age 13 due to the closure of schools are provided with some limited allowances paid by Social Security.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Yes, employers may require employees to attend work. Even though the employer may be understanding regarding the possible fear to attend the workplace, an absence for such reasons would be considered unexcused and may lead up to a termination of employment. This does not apply to employees with objective reasons not to attend work, e.g. those taking care of their child or those under official quarantine. Besides that, the general rule is that all employees should be treated equally.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Yes, the employer should instruct the employee to leave the work place and seek medical help (according to the instructions by the Regional Hygiene Station or the Ministry of Health) and to apply for sick leave.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

There is no legal right of the employer to ask the employee for medical information. However, we assume that in these difficult days requiring such information may be justified and the employees might be asked to share the information on a voluntary basis (on the other hand, if the employee is sick with COVID-19, the Regional Hygiene Station and/or similar institution will also inform the employer with regard to potential quarantine of other employees/workplace/etc.). The employers are entitled to adopt restrictive measures to protect other employees, i.e. they may take employees/visitors temperatures prior to entering the workplace these days.

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

Yes, employers may notify the other employees. However, the privacy of the person should be preserved and only the directly affected employees should be provided with more detail.

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Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

At the date of the issue of this document, travelling abroad has been restricted by the Czech Government (some exceptions apply). Before this restrictive decree, employers could not restrict employees' personal travel but they could ask to be informed about returning from risky areas, as they would have to notify the Regional Hygiene Station and follow its instructions (i.e., self-isolation for 14 days), and so employers could recommend not to travel abroad.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

The employer must secure the health and safety in the workplace, i.e. also at the employee's home. This is usually done through an agreement in which the employee undertakes to preserve the work health and safety requirements even when working from home. In case of an injury, the employees are covered by social security if the injury occurred in relation to the work tasks. Employees should be provided with compensation for the used electricity, internet, heating, etc. (the expenses that would normally not be covered by the employee if they would work at the work place).

Additional information on COVID-19 issues in this jurisdiction

<https://www.havelpartners.cz/en/home-office-what-employers-should-bear-in-mind/>

<https://www.havelpartners.cz/en/what-are-the-impacts-of-the-liberation-tax-package/>

<https://www.havelpartners.cz/en/closure-of-stores-operations-what-are-the-impacts-on-employers/>

<https://www.havelpartners.cz/en/coronavirus-from-the-employers-perspective-2/>

<https://www.havelpartners.cz/program-antivirus/>

<https://www.havelpartners.cz/en/antivirus-program/>

<https://www.havelpartners.cz/en/changes-to-the-labour-code-as-part-of-combating-the-viral-disease-covid-19/>

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DENMARK

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

On 15 March 2020, the Government announced a new tripartite agreement between the Government, the Danish Employers' Confederation and the Danish Trade Union Confederation. The object of the agreement is to avoid dismissals and to ensure that employees receive wages and salaries as usual through a state compensation scheme for private undertakings, which are extraordinarily affected by COVID-19 and therefore face having to dismiss a large number of employees. The temporary compensation scheme will apply from 9 March to 9 June 2020.

The agreement covers private undertakings facing dismissal of at least 30% of its employees or more than 50 employees. Compensation of wages and salaries is an alternative to dismissal and is conditional upon the undertaking not dismissing employees for economic reasons during the compensation period, but instead sends employees home with full salary.

The State compensation of wages and salaries for employees under threat of dismissal will constitute 75% of the total payroll expenditure for the involved employees; however, maximum DKK 30,000 per month per full-time employee. For hourly paid employees, the state compensation constitutes 90%; however, maximum DKK 30,000 per month per full-time employee.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Fear of being infected does not constitute legal grounds for absence from work. Consequently, employers can discipline or terminate employees who do not report to work if they are otherwise not subject to certain isolation or quarantine orders. Employers should be mindful of applying such policies consistently across all employees and not treat employees differently.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Yes, employees who show symptoms of COVID-19 or who report a positive or suspected positive test should be directed to stay away from work, however, with full pay.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

An employer can request documentation that the employee is sick which can be obtained from the private physician. However, requesting further medical information or taking employees' temperature is considered as a disproportionate control measure.

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

As a main rule employers are not allowed to share health information about employees. However depending on the circumstances the employer may be allowed to share the health information about an employee being diagnosed with COVID-19 if it is relevant to ensure the health and safety of other employees.

COVID-19 / Local Responses to Global Employee Impact**Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?**

No. The employer can only discourage such activities. However, given the extraordinary situation the employer may instruct the employee not to travel to areas, which have been categorized as high-risk areas by the authorities. If the employee decides to travel to such areas despite the instructions by the employer, then the employer can require the employee to refrain from coming to work during a quarantine period without pay (provided the employee is not working from home).

Furthermore, it might have consequences for the employee's right to receive salary during sickness and sick pay, if the employee became sick during the travel to such high-risk areas while disregarding instructions given by the employer.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

The Working Environment Act generally also applies to work performed from home. For work performed at home for more than one full day per week the Working Environment Act applies in full.

Jacob Sand, Ditte Grundtvig Larsen | Gorrissen Federspiel

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ECUADOR

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

The government has not provided additional resources directly. However, the term of income tax payment has been postponed and the workers may have access to preferential rate credits and loans.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

The Executive Decree 1017 declared a national emergency. One of the measures taken consisted on suspending the workday nationally. The Government has announced that compelling employees to work may constitute a felony.

The industries related to pharmaceuticals, food supply, security, health services, public services, energy industry among others needed to face the emergency are obliged to keep working. If the employees from these sectors refuse to work, they may be dismissed without severance or, even, be prosecuted for not complying with the legal mandate to work under a national emergency.

What must employers do when they know or suspect an employee has the virus?

According to the Labor Ministry guidelines, the employer shall report the case immediately the Health Ministry using the hotline 173. If having a suspicious case, the employer can instruct the employee to stay at home and to get medical attention. Inside the working place, the employer has the duty to monitor continuously the health of its employees and, therefore, can undertake medical tests. The employer is not required to notify other employees regarding a possible or confirmed COVID-19 case. The Health Ministry has that duty, if considered appropriate.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

The employer cannot limit the personal decisions of the worker. However, the employer can instruct the basics of telework in which it the obligation to remain available in town during working days, may be implemented.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Yes, the Ministry of Labor has issued the Ministerial Agreement No. 190 which states that the employer must: (a) establish a telework agreement where the scope and general terms of the duties shall be specified; (b) verify that the workplace complies with minimum health and safety measures; (c) provide all the necessary equipment to telecommute; (d) stipulate the data privacy policy with the employee.

Additional information on COVID-19 issues in this jurisdiction

<https://publicacionespbpaldia.com/>

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EL SALVADOR

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

Currently, in our legislation, there is no clarity on who will be responsible for paying the salaries of employees who, due to the state of emergency, cannot continue working. However, the government has implemented the following measures:

- As a compensation measure the government will grant a bonus of US \$300.00 per month to people who are unemployed and those who are economically affected by the pandemic;
- Public employees who directly carry out activities related to COVID-19, in institutions such as the Ministry of Health, will receive a bonus of US \$150.00;
- The preferential credit line offered to those employers who voluntarily closed-down their operations; and
- The suspension of payment of electricity, water, and telephone bills for three months for those directly affected by the pandemic.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

The Government issued Executive Decree N° 12 (later substituted by Executive Decree N° 14), which established a domiciliary quarantine and strict restrictions for commercial activities for 30 days until April 14, 2020.

Employers may require employees to attend work and they can be penalized or disciplined if they do not go to work if the activities, they carry out are within those permitted by Executive Decree N° 14, issued on March 30, 2020, which are:

- Textile companies that produce health goods and services or any product necessary to attend the emergency, such as food and beverages, cleaning products, toilet paper, sanitary napkins, among others.
- Call centers for the sale and distribution of food delivery, airline service, electricity services, telecommunications, banking, financial, and health services.
- Security services, gas stations and passenger transportation, which must operate at half of their capacity; and taxi services and private transportation services, cargo transportation and the media.
- Public and private distribution services for potable water, including those companies dedicated to waterworks' construction and maintenance, postal services and mail.
- Agriculture and livestock, beekeeping and fish farming, agroindustry and its distribution operations.
- Financial services such as banks, credit, financial, and saving companies, insurance companies, securitization companies, the stock market, brokerage houses, product exchanges and pension funds.
- Public and private laboratories, health services such as public and private hospitals, private clinics except for dental clinics, and other companies strictly related to health, as well as other companies dedicated to the distribution of goods indicated in this item.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Yes, if any employee shows up for work and has any of the following symptoms: (a) fever, (b) coughing, (c) difficulty breathing and (d) fatigue, we strongly advise to require them to stay home and notify the Ministry of Health.

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What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

Health questions can be asked except if related to HIV/AIDS, as this is expressly prohibited (Art. 30, prohibition 14th, Labor Code). Also the employer can undertake their health measures such as hiring medical staff, taking employees temperature and all the health measures that the employer considers for avoiding possible infections. Moreover, Art. 31, obligation 10th, of the Labor Code, establishes that the employee should submit to medical tests when it is required by the employer or by administrative authorities to check their health status.

In ES it is part of the responsibility of the employers (specifically from the corporate safety committee), to apply the measures established in the crisis committees to activate the risk plan in an emergency (Art. 8 of Risk Prevention in the Workplaces Law).

The Ministry of Health is adhering to the International Health Regulations (2005) issued by the World Health Organization and has recommended to all inhabitants:

- Regular handwashing.
- Covering of mouth while coughing or sneezing.
- Avoiding contact with people who show symptoms.
- Avoiding agglomerations of people.
- Using medical masks.
- Be aware of the following symptoms: (a) fever, (b) coughing, (c) difficulty breathing and (d) fatigue.

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

Employers should notify other employees if they have been potentially exposed to COVID-19 in the workplace, also we strongly advise to notify the Ministry of Health of any suspected or confirmed cases, in order to avoid a potential fine of up to US \$11,428.57, as there is no clarity if the Ministry of Health has updated the list of diseases of mandatory notification during this emergency.

Currently COVID-19 is not included in the list of diseases of mandatory notification, issued by the Ministry of Health. This might change soon though, as similar diseases such as SARS are included.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

During working hours, the employers can monitor employee's location for business travel, also they can limit their activities in this period of time, but not without employee consent for location and movement when they are off working hours.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Under current Salvadoran legislation, there is no special regulation regarding telecommuting, the employment agreement must establish the location from which the work may be performed and establish who will provide the work tools to the employee (Ar. 23, numbers 6 and 10 of the Labor Code).

Currently, a draft law has been approved by the Legislative Assembly to specifically regulate telecommuting, however, it has not yet been sanctioned by the President, who sent it back with several observations. We strongly advise to compensate the costs to the employee because the future law is aimed at issuing measures to complement some costs to the employee such as the consumption of electric energy, potable water, internet payment and all the expenses incurred by the employee for adopt the telecommuting modality.

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Additional information on COVID-19 issues in this jurisdiction

[Media Room about COVID-19 in Central America](#)

Fernando Farrar | BLP

COVID-19 / Local Responses to Global Employee Impact

FINLAND

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

The Finnish government has proposed a temporary amendment to the Employment Contracts Act and the Act on Co-operation within Undertakings in order to expedite the consultation process and notice period in case an employer is forced to layoff employees temporarily due to the local lockdowns and/or lack of business. The duration of the consultation process is decreased from 19 days to 10 days and notice period is decreased from 14 days to 5 days. The measures are temporary and will remain in force until end of June 2020. At the same time, the employees who are laid off are entitled to unemployment benefits starting from the first day of layoffs and the regular five days' waiting period is temporarily waived.

The employers' social security contributions will also be decreased by 2.6 percentage points until end of 2020 and the payment of pension insurance contributions are delayed by three months.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Employers can discipline or terminate employees who do not report to work if the employee does not have a justifiable reason for the absence, such as family leave, sick leave or quarantine. If an employee is forced to stay at home in order to care for children whose school or nursery is closed, the employee is entitled to be absent from work, but the employee is not entitled to pay during such absence.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Yes, the employer may order employees to stay home if they show symptoms of COVID-19 or if the employer suspect that the employee may have contracted the disease.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

An employer may not undertake their own test, but the employer may request the employee to undergo a medical examination in order to assess the employee's working capacity and the employer may have a medical practitioner on site to carry out basic examinations, such as taking employees' temperatures, in order to assess whether the employees are fit to work or not.

Employers may not ask for additional medical information such as underlying health conditions that would make employee vulnerable.

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

Employers should notify other employees if they have been potentially exposed to COVID-19 in the workplace. The identity of the affected individual may not be revealed to other employees.

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Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Employers can advise against personal travel and can order employees to self-isolate after they take personal trips. If the employee has taken personal trip after the government recommended that citizens should avoid all unnecessary trips the employer is not obliged to pay the employee salary during such self-isolation if the employee cannot work from home, provided that the employees have been informed about such policy in advance.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Employees are covered by statutory accident insurance while they work at home, but employers should check the scope of the coverage with the insurance provider.

Even if the need for surveillance and monitoring of network activities would increase because employees are teleworking, such activities has to be designed carefully as the Finnish legislation gives the employers only quite limited right to monitor the activities of the employees.

Additional information on COVID-19 issues in this jurisdiction

<https://www.ww.fi/news/category/covid-19-newsroom/>

<https://www.ww.fi/news/2020/03/temporary-closedown-amid-corona-crisis-what-can-employers-do/>

<https://www.ww.fi/news/2020/03/covid-19-what-information-can-be-published-by-the-employer-and-how/>

<https://www.ww.fi/news/2020/04/process-to-be-followed-before-temporary-layoffs/>

<https://www.ww.fi/news/2020/04/covid-19-and-remote-work-gdpr-applies-even-when-working-from-home/>

<https://www.ww.fi/news/2020/04/covid-19-technical-monitoring-of-remote-work/>

Jan Waselius, Jouni Kautto | Waselius & Wist

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FRANCE

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

The French COVID-19 Emergency Bill was adopted on March 22nd and allows the Government to issue new legislation on a limited number of subjects, in response to the COVID-19 epidemic, without having to go before the French Parliament through “Ordinances”. Several Ordinances have thus been adopted to allow companies to deal with the economic, financial and social consequences of the spread of Covid-19. In addition, a decree has been published by the government on March 25, 2020. These new provisions have changed the conditions of Temporary Lay Off (“TLO”). The Government also regularly publishes handbooks and FAQs to provide guidance to companies and employees.

Employees put on TLO are paid a monthly temporary lay-off indemnity equal to 70% of their gross salary and until recently, the employer could seek reimbursement of the indemnity from the State up to a maximum equal to circa EUR 1,000. The abovementioned decree increases the amount of the reimbursement made by the State to 70% of 4.5 times the monthly minimum wage per month (*i.e.*, circa. EUR 4,850) and per employee. Consequently, employers will be fully reimbursed by the State, up to such limit, for the temporary lay-off indemnity paid to their employees. In addition, the benefit of the statutory scheme for employees who are put in “partial” temporary lay-off (*i.e.*, their working time is reduced, but they do not cease all work) is extended to employees whose working time is computed in days, or hours, on an annual basis, which is the working time scheme under which most executive employees work in France. The benefit of the statutory scheme has also been extended to employees of companies with no permanent establishment in France, under the condition that they are subject to the French social security regime.

Furthermore, employers are no longer required to consult their works council prior to implementing TLO or even prior to filing a request for TLO. Such consultation, which remains mandatory, may take place *after* filing a request with the French administration, as long as the works council’s opinion on TLO is provided to the administration within two months of the filing of the request for TLO. The new rules also provide that employers no longer require the prior agreement of protected employees (such as members of the works council), to put them on TLO, under the condition that every employee of the company, the establishment, the unit or the workshop they work in are put on TLO as well. Finally, employers are no longer required to file their request prior to implementing TLO and may do so within 30 days from the implementation of TLO.

The measures regarding TLO are applicable as of March 26, 2020, and apply to any TLO set up on or after March 1, 2020.

Can employers require employees to attend work? Can they be disciplined or penalized if they don’t report to work?

The Ministry of Labor has published a brochure that outlines the employer’s obligations regarding health and safety in the context of the pandemic, especially for companies in “sectors particularly necessary for the security of the Nation and the continuity of economic life”, whose employees are on the front line.

Employees identified as high-risk contact cases by the ARS (Agence Régionale de Santé) shall be granted a sick leave during the recommended isolation period. The employee receives daily allowances from the State health insurance and the employer.

As long as the employer puts in place adequate preventive measures, the Ministry of Labor considers that the exercise of the right of withdrawal (“*droit de retrait*”) would not be justified, subject to the sovereign appreciation of the court.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Yes, if employees show symptoms of COVID-19 or report a positive or suspected positive test, the employer must send the employee home and immediately clean the work areas of the employee concerned. If the symptoms are serious, the employer must call the emergency medical services.

COVID-19 / Local Responses to Global Employee Impact

What must employers do when they know or suspect an employee has the virus?

- b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

When an employee presents a serious risk of being contaminated, in particular due to a stay in an area with active virus circulation, the employer must take precautionary measures that take this risk into account : inform the employee that he must avoid places where there are fragile people, avoid any unnecessary travel or meetings (conferences, meetings, etc.), avoid close contacts (canteen, elevators, etc.). The employer shall recommend employees to monitor, on their own, their temperature twice a day, and shall also be watchful of symptoms of respiratory infection (fever, cough, difficulty breathing).

What must employers do when they know or suspect an employee has the virus?

- c. Are employers able to/required to notify other employees?

The employer must inform employees who have been in close contact with the employee, as a precautionary measure.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

No, but employees are subject to the lockdown rules which prohibit any travel other than for very limited reasons.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

An accident occurring during the telecommuter's professional activity is presumed to be a work-related accident. It is therefore covered under the same conditions as when such an accident occurs on the company's premises.

The employee working from home is covered by labor legislation and in particular by the rules applicable to working hours. The employer shall ensure that maximum working hours and rest periods are complied with. The employer is bound by his safety obligation and must ensure the protection of the employee's health when implementing telecommuting.

Additional information on COVID-19 issues in this jurisdiction

[COVID-19 Publications and Webinars](#)

COVID-19 / Local Responses to Global Employee Impact

GERMANY

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

Government has modified the rules to apply for short time work benefits: Provided 10% of the work force (previously 30 %) suffers a decrease of the work volume by at least 10 % and further provided the employer has a legal basis to reduce the work time of the employees (legal basis can be individual agreement, works agreement with the works council or collective bargaining agreement with the union), the employer can order a reduction of the work time up to 100% for individual or even all employees (in case of a complete closure) in which case the employee receives 60 – 67% of the previous net income as so called short time work allowance. In addition, unemployment agency covers 100% of the social security contributions to be paid during short time work.

Due to the increased risk by visiting medical clinics, doctors are allowed to put employees on sick leave for up to 14 days without having physically examined the employee (e.g. in case the employee calls the doctor over the phone or via skype).

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Yes, employers can require employees to attend to work. Employees cannot decide unilaterally to work from home because they are afraid of being infected, even if work from home is possible. Nor can the employer order the employee to work from home. However, usually employer and employees do mutually agree on home office arrangements.

An employee who does not show up to work without a justifying reason, can be sanctioned with a formal warning and, in case of continued absence, dismissal for cause.

An employee who has to take care for a child due to the closure of school or nursery is excused from the duty to show up for work and cannot be sanctioned for being absent. It is disputed whether the employer is obliged to continue to pay the salary for such period of absence. Some opinions say the employer must pay the salary for a few days, some say in case of a longer absence there is no obligation to pay the salary at all, even not for a few days.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

In case of a mere suspicion the employer cannot require the employee to stay home. In case the employee had direct contact with a person infected by the virus, the employee MUST stay at home and is being quarantined for 14 days. In such case, the employee continues to receive the salary from the employer but the employer is being reimbursed by the social security insurance. If the employee is infected, the employee is regarded sick and receives regular sick pay by the employer for a maximum term of six weeks without reimbursement.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

In general, the employer cannot ask an employee for medical information. However, in case of a COVID-19 infection an exception applies due to an employee's general loyalty obligation towards the employer. In such case the employer may ask whether an employee is infected or not and the employee is required to disclose this information, in order to enable the employer to take appropriate steps to protect the co-working employees.

The employer may undertake own tests only if the employee agrees to the respective measure.

COVID-19 / Local Responses to Global Employee Impact**What must employers do when they know or suspect an employee has the virus?****c. Are employers able to/required to notify other employees?**

In case of a positive COVID-19 test, the employee must notify the employer about the sickness. The employer has to implement appropriate measures to protect the other employees without disclosing the identity of the infected employee.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

No, this is not possible. However, in case an employee ignores official warnings by the authorities and travels in a risk area and gets infected, the employee may lose the right to receive sick pay.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Due to German case law, statutory accident insurance covers only accidents that are directly related to the actual work performed at home. All private activities at home, e.g. walk to the kitchen or to the bathroom, even if happening during work hours, are excluded. Employers should check coverage with their insurers.

Although employees are required by law to keep business secrets confidential and most employment contract provide for respective covenant, employers may want to agree on separate confidentiality agreements with their employees working from home which specifically address issues that arise due telecommuting such as to ensure protected W-LAN environment.

Additional information on COVID-19 issues in this jurisdiction

[COVID-19 Publications and Webinars](#)

COVID-19 / Local Responses to Global Employee Impact

GUATEMALA

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

The last Presidential dispositions encouraged employees and employers to enter into agreements within the legal framework and in strict compliance with the principles of labor law, based on the principles of conciliation, minimum guarantees, realism and conventionality.

The foregoing highlights the possibility of reaching agreements with employees in strict compliance with the minimum guarantees. It is possible to reach a mutual agreement between employer and employee to implement alternatives (for example, vacations, unpaid leaves, etc.) regarding the presidential provisions of calamity public state.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

The current health dispositions establish that employees older than 70 years old and employees with serious health conditions must be sent to home. The employer in this case, cannot obligate the referred employees to attend to work. They cannot be penalized if they do not report to work. Any employee that shows any symptom due to health measures should not be obliged to attend work. The employers that are still operating in the emergency state declared by the government should observe the sanitary measures needed and suggested by the government.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

When one of the employees is suspected to have the symptoms of COVID-19, the employer must communicate to Ministry of Public Health and Social Assistance by calling 1517 and 1540. The Ministry has the faculty to isolate the suspect or quarantine to prevent more disease spread.

The health legislation establishes that the Ministry of Public Health and Social Assistance is empowered to adopt measures for the prevention and control of diseases. Therefore, it could apply contingency measures such as the temporary closure of establishments, targeted quarantine or sanitary cords, depending on the severity of each case. It is suggested to keep in mind when a case of COVID-19 is confirmed in one of the employees, it is possible that the Ministry of Public Health and Social Assistance establish sanitary measures in the workplace, not ruling out the possibility of temporary closure or permanent closure.

Employers can require employees to stay home.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

The Company must comply with the preventive measures established by the Ministry of Economy:

- Provide antibacterial gel to all the employees
- Ensure health services for all employees, in accordance with the Occupational Health and Safety Regulations (see: <https://bit.ly/2QnBSZf>).
- Provide information to your employees related to the prevention of COVID 19 infection.
- Provide health services, in accordance with the Occupational Health and Safety Regulations (see: <https://bit.ly/2QnBSZf>).
- Have a person in charge of medical services.
- Have the list of employees, with addresses and telephone numbers, where appropriate, to ensure traceability in the event of any employee presenting symptoms related to COVID 19.

COVID-19 / Local Responses to Global Employee Impact

It is advisable to take employees' temperatures.

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

No.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Teleworking (Home office) is recommended in this moment. Employees and employers are encouraged to enter into agreements within the legal framework and in strict compliance with the principles of labor law, based on the principles of conciliation, minimum guarantees, realism and conventionality. The foregoing highlights bring the possibility of reaching agreements with employees in strict compliance with the minimum guarantees. It is possible reach a mutual agreement between employer and employee to implement alternatives

Regarding personal travels (outside the country), please take note that all air, land and sea borders throughout the national territory (Guatemala) are closed, so the entry of foreign people through any of our borders is also prohibited.

An exception will be made to enter Guatemalan territory in the following cases:

- Guatemalans
- Permanent residents
- For belonging to the diplomatic corps accredited in the country
- Exceptional cases determined by the Guatemalan Migration Institute, approved and supervised by the Ministry of Public Health and Social Assistance and coordinated by the Ministry of foreign affairs.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

For your information Guatemala has no general privacy law; however, the right to data protection has been recognized and safeguard by other regulations and Constitutional dispositions, who set out guidelines on how institutions could ensure protection to users and establish a minimum of guarantees concerning the collected data and information.

In that sense, we explain that Guatemala offers a lower level of protection to what respects to data privacy if doing a comparison with other countries where there is specialized legislation or the GDPR applies. Compliance standards are basically based on respect for the right of constitutional rank that protects the privacy of the person and in this case, in the set of recommendations delivered by the International Labor Organization (ILO), whose guidelines are strictly followed by the Guatemalan labor authorities.

- In this context, companies with employees based in Guatemala must ensure that their internal and practical policies ensure that right in order to protect those rights, that even if they are not explicitly developed by a specialized law, are fully recognized by a labor judge who can rule based on the constitutional right to privacy.
- To ensure there is a legal basis for using VCS, we recommend obtaining proper, previous and explicit consent from the employee. The employee should receive in a privacy notice the correspondent information with a clear and understandable explanation of the monitoring activity for performance evaluation purposes.

Additional information on COVID-19 issues in this jurisdiction

[Media Room about COVID-19 in Central America](#)

COVID-19 / Local Responses to Global Employee Impact

HONDURAS

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

There is currently no new legislation regarding new protections or additional resources to assist employers and employees. Congress is discussing new laws, but they have not been approved yet.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Due to the National Emergency declared by the Government, all labor is suspended until April 12, except for specific industries related to hospitals or medical care facilities, pharmacies and pharmaceutical companies, gas stations, supermarkets, security companies, banks, food industry, energy producers, agricultural industry, telecommunications, internet providers, media, water supply and cargo industry for supplies. For a business to be operating in Honduras, it must be listed in the above and have a safe passage granted by the Ministry of Security. In case the business is currently operating in Honduras, employees must attend to their workplace. They can be disciplined if they do not report to work following the procedure established in the internal work code. If the employee addresses a fear of virus contagion by coming into work, they can request being sent on vacation for which the employee and the employer have to sign a written agreement. The same applies to employees in an at-risk category, those who choose to self-isolate and employees caring for children.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Yes, an employer can request an employee to stay home. If the employer suspects that an employee has the virus or has the common symptoms of COVID-19 or even similar respiratory symptoms, they should be sent to seek medical attention immediately or call the emergency line 911 in which they would receive instructions on how to proceed.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

Yes, the employer actually should take every employee's temperature before entering the workplace. If the employer has a doctor on the premises, he should evaluate any employee who presents symptoms. If not, the employee should be sent to seek medical attention immediately. If an employee is confirmed negative for COVID-19, the employee should notify the employer and get back to work, in case the employee is confirmed positive for COVID-19, the employee should immediately go into self-isolation and is required to notify the employer.

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

The employer is required to notify employees in the event that any other employee is confirmed positive for COVID-19 and with whom other employees may have interacted.

COVID-19 / Local Responses to Global Employee Impact

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Employers cannot limit activities outside of work for their employees; they may recommend them but are not mandatory. However, as we stated before, Honduras is currently on a National Emergency declared by the Government and a mandatory lockdown has been established until April 12. People may only leave their homes to seek medical attention or to specifically go to supermarkets, banks, pharmacies or gas stations on Mondays, Wednesdays and Fridays from 9:00am to 3:00pm; the date in which you may attend, depends on your final ID number. Transit is prohibited on Tuesdays, Thursdays, Saturdays and Sundays unless having a safe passage granted by the Ministry of Security.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Telecommuting has been recently authorized by the Government, and implementation should be specified in the labor contract in which they should consider the rules of property, use and care for the equipment, the form of payment of internet connection, the property of data or information transmitted and the process of storage of such information. These employees do not require a work schedule, but they must work respecting the maximum hours in compliance with our Labor Code.

Additional information on COVID-19 issues in this jurisdiction

[Media Room about COVID-19 in Central America](#)

Adolfo Pineda | BLP

COVID-19 / Local Responses to Global Employee Impact

HONG KONG

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

The Hong Kong Government has implemented a number of measures to support employers and employees affected by the epidemic, including:

- a HK\$10,000 cash payout to Hong Kong permanent residents aged 18 or above,
- a reduction of salaries tax, tax under personal assessment and profits tax for 2019-2020 assessment year by 100% (subject to a HK\$20,000 ceiling),
- introducing a concessionary low-interest loan for up to HK\$2 million for small and medium-sized enterprises, with a 100% guarantee provided by the Hong Kong Government and repayment period up to 3 years, and
- setting up a HK\$30 billion Anti-Epidemic Fund to provide additional resources to strengthen the territorial-wide anti-epidemic work and render support to the affected industries and employees. Under the Anti-Epidemic Fund, the Hong Kong Government has established a Retail Sector Subsidy Scheme which provides relief for the retail sector. Eligible retail stores can receive a one-off subsidy of HK\$80,000 per store, while the maximum amount of subsidy for a parent company that operates retail groups or chain stores under the same business registration is HK\$3 million.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Employers can require employees to attend work and if they don't, they could be disciplined or terminated, unless they are on protected leave (e.g. sick leave, approved annual leave, maternity leave), on notice of pregnancy or subject to mandatory quarantine order. Nevertheless, employers have an overarching statutory and common law duty to ensure a safe and healthy workplace, and they should not treat employees differently due to their family status.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Yes, employers can do so.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

Yes, employers can do so, provided that the medical information sought is reasonable, proportionate and relevant to determining whether the employee may have COVID-19, and they observe data privacy regulation at all times. If the employee is displaying or discloses to the employer he/she is showing symptoms of COVID-19 or is otherwise sick, the employer may require the employee to stay away from the workplace.

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

Employers are not specifically required to notify other employees, but they should consider doing so in light of the contagion of COVID-19 as part of their statutory and common law duty to maintain a safe and healthy workplace. Employers should assess their privacy notice to see if they may disclose the identity of the infected employee to third parties.

COVID-19 / Local Responses to Global Employee Impact**Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?**

Employers cannot limit employees' activities outside work (e.g. personal travel), but they can dissuade them from doing so especially where many places are now having stringent preventive measures against COVID-19. If an employee has returned from overseas, the employer may require him/her to work from home for a period of time (in these circumstances, 14 days would be reasonable), and in any event, the current position is that all persons coming into Hong Kong are subject to mandatory quarantine order. Whether or not an employer may require an employee to work remotely from an overseas location will depend on whether there is a contractual right for the employer to change the place of work.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Employers should remind employees of their relevant policies, such as confidentiality and cybersecurity. Employees should be covered by employees' compensation insurance if they suffer an injury while working from home, in which case employers should ensure they make a timely report to the Labour Department and the insurer. Those on work visa may be subject to the condition that they are to work at a certain place, in which case immigration specialist advice should be obtained.

Gordon Williams, Kristy Edser, Desmond Liaw, Courtney Chan, Kelly Halpin | MinterEllison

COVID-19 / Local Responses to Global Employee Impact

HUNGARY

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

The Hungarian Government introduced several measures to help employers and employees manage the pandemic situation. Rules related to individual employment contracts generally aim at providing more flexibility to the parties during the course of the emergency situation.

According to these rule in the period of emergency:

- employers are allowed to unilaterally (without employee consent) order home-office and remote working;
- employers are allowed to unilaterally modify or amend employees' work schedule unilaterally without keeping 7 or 4 days advance notice
- parties may derogate from the statutory rules of the Labour Code by agreement, this may typically include:
 - agreement on allocation of yearly holidays without keeping the interim period of 15 days;
 - agreement on taking unpaid leave;
 - agreement for taking downtime (stoppage time) without compensation;
 - agreement on shortening working time/reducing salary.

In addition the Government provided an exemption from paying public charges and public health contribution to employers operating in sectors most severely affected by the crisis eg. hotels/accommodation, restaurants, film industry, sports, etc. For the time being state subsidy is available to employers to avoid redundancies, but such measures may be introduced later on.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Yes, employers can require employees to attend to work. An employee's fear of being infected does not constitute a justified reason for absence from work. If an employee fails to report for work without a justified reason, the employer is allowed to take disciplinary measures or dismiss the employee for cause.

If an employee cannot report to work due to the childcare duties or unavoidable external reasons (such as area lockdowns or quarantines) these are generally regarded as absence for justified reasons, however for such periods no compensation needs to be paid by the employer.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Yes, employers can require employees to stay at home and i) perform work from home office, ii) (if they show symptoms and are not able to work) ask a medical certificate from the doctor and receive social security benefits iii) if neither of the above is possible to pay base wage to the employee without work for this downtime.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

According to the guidelines of the Hungarian Data Protection Authority, employers may not perform a general screening of their employees (eg. by thermometer) or ask them to provide health related documentation. These measures are considered as disproportionate. If suspicions of a possible inspection arise employers may order an extraordinary medical examination of the employee by the occupational physician.

COVID-19 / Local Responses to Global Employee Impact

Employers are entitled to order employees to notify a designated person at the employer or the occupational physician if it is assumed that they have been exposed to the coronavirus (eg. meeting an infected person). Employers are allowed to record employees' personal data related to such notification. For the purposes of risk-assessment employers may also ask employees to fill out a questionnaire about private time activities or recent travels.

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

Employers are generally not allowed to disclose health related information about their employees. However, depending on the circumstances the employer may be allowed to disclose the identity of an employee being diagnosed with coronavirus to other colleagues if it is relevant to protect the health of those other employees.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Employers can generally only discourage such activities and/or inform employees about the associated risks. Due to the extraordinary pandemic situation, employers may ask employees to refrain from travelling to certain areas, which have been categorized as high-risk areas by the authorities. The employer can require employees travelling to abroad or to high-risk areas to refrain from coming to work from home or to stay away from the workplace for a quarantine period.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Employers are generally required to make sure that the home office is "fit for purpose" (i.e., it is compliant with health-and-safety law requirements) as the employer continues to be under an obligation to provide a safe workplace.

If a home office is ordered, employers are required to inform employees about i) terms of use of computing equipment incl. restrictions; ii) potential control and surveillance measures, iii) the employer's organizational unit to which the employee is connected.

COVID-19 / Local Responses to Global Employee Impact

INDIA

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

On March 24, 2020, the Indian central government under the Disaster Management Act, 2005, implemented a national lockdown up to April 14, 2020 and ordered all governmental authorities including state governments to, in general terms, pass orders directing all commercial, private, and industrial establishments to be closed down, except for certain essential services (such as groceries, medical, healthcare and pharma, telecom, banks, utilities, essential e-commerce and essential commodities); industrial units which require continuous process are also permitted to operate with government permission. Most state governments have consequently passed orders to give effect to the lockdown on the above terms, and all public and private transport including trains and flights has been suspended (except for transport for essential services). Therefore, employees of private establishments have been working from home.

In the last two weeks of March, central and state governments have issued orders and advisories (covering various classes of employees) stating that employees on leave should be deemed to be on duty, without any consequential deduction on wages during the lockdown, and asking employers to not terminate employees. Additionally, to mitigate economic hardship faced by certain segments of the workforce (in general terms migrant workers), the Indian central government on March 29, 2020, passed a further order under the Disaster Management Act, 2005, directing authorities and state governments to take measures to ensure that (i) all employers make payments of wages to their workers on time without any deductions while the establishments are closed during the lockdown and (ii) landlords do not demand payment from workers living in rented accommodation for a period of one month.

Further as part of a relief package, the central government also (i) announced that provident fund contributions will be paid by the government, on behalf of the employer and employee, for the next 3 months, for establishments with up to 100 employees, which have 90% of employees earning less than INR 15,000 per month; (ii) directed states to use the Building and Construction Workers Welfare Fund to provide relief to construction workers; (iii) provide monetary through government schemes to less privileged sections of society.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Establishments of employers providing essential services that are exempted from the general closure order of the government during lockdown, would be governed by their usual terms of employment and they can discipline or penalize their employees if they don't report to work, without obtaining adequate permissions, subject to the terms of their employment. Such action may also be taken if an employer has made adequate arrangements for the employees to work from home but the employees do not do so or fail to perform the duties entrusted to them (unless there are pressing reasons for non-performance).

However, in light of the orders/advisories referred above, whether one can terminate or reduce wages of an employee, will need to be examined based on specific facts, place of work, and the class of employees covered by such orders/advisories.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Under various state shops laws governing private establishments and laws governing factories, there is a general obligation on the employer to take measures to ensure health and safety of the employees. Further every employer will typically have control over the premises in which his establishment has been set up. For these reasons, the employer will be legally entitled to take sufficient measures to ensure a healthy work environment, which in our view will extend to requiring an employee suspected to have the virus to not attend the workplace.

COVID-19 / Local Responses to Global Employee Impact

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

Taking employees' temperature: Consequent to the employer's obligations to maintain a healthy work environment, an employer can require employees to be tested (such as undertaking temperature checks, or requiring them to clear a health check-up with the employer appointed doctor) as a pre-condition to permitting them to report to work. Before conducting a temperature test the employee should (i) intimate all the employees, in advance, that a temporary temperature check will be conducted as a temporary and precautionary measure and (ii) ensure that such a test is not invasive.

Medical information: Any information on medical history or physical health of an individual (which includes information regarding suspected or known infection of COVID-19) would be 'sensitive personal data' of the concerned employee under Indian information technology law. An employer will need a written consent from the concerned employee to collect such information and it would need to be handled in accordance with provisions of the information technology law.

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

The above restriction on disclosing medical information does not, in our view, preclude employers from issuing general advisories (without disclosing the identity of the infected or suspected employee) and notifying other employees, of cases in their workplace and undertaking consequent precautions to ensure the health and safety of their employees.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

In view of the current lockdown this issue is moot for now. However, legally speaking, an employer can only regulate activities of employees at the workplace pursuant to the terms of employment (and therefore cannot directly restrict personal travel or activities outside work). They can however indirectly restrict such activities, by prohibiting employees who have travelled overseas from attending the work place and can issue non-binding general advisories asking employees to avoid doing certain activities (e.g. avoiding crowded spaces and personal travel to affected areas) or taking certain measures (e.g. required sanitation measures) outside work, in the interest of the employer and employees.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

(1) While implementing remote working arrangements, employers should ensure that the employees are aware of and adhere to the confidentiality obligations as per their terms of employment. Where certain establishments access sensitive personal data or information (such as bank account details and medical records) of clients, they must comply with reasonable security practices and procedures pursuant to Indian information technology law, as well as any contractual commitments. Some industries have specific restrictions that need to be borne in mind. For instance, there are certain restrictions and conditions on certain classes of telecom licensees (those with business processing outsourcing units) on working from home. The Department of Telecom has however relaxed these requirements in light of the current COVID-19 pandemic.

(2) Indian employment laws prescribe restrictions on working hours and payment of overtime for work done beyond these hours, for certain types and classes of employees, and employers should consider how they will implement these requirements during remote working through telecommuting.

(3) An employer will continue to be liable for payment of compensation as per the Employees' Compensation Act 1926 and Employees' State Insurance Act 1948 in case of any injury / death of employees during the course of their employment even when his/her employees are working remotely.

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IRELAND

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

The COVID-19 Temporary Wage Subsidy Scheme (**TWSS**), introduced by the Irish Government through the Emergency Measures in the Public Interest (COVID-19) Act 2020 last week, provides financial support to employees who have been significantly impacted by COVID-19. TWSS is expected to last for 12 weeks from 26 March 2020.

Under TWSS, a temporary wage subsidy of 70% of an employee's average net weekly pay up to a maximum weekly amount of €410 will be available to employers for employees earning net wages of €586 per week or less. A subsidy of €350 (or 70% of the employee's average net weekly pay if less than €350) will be available for those earning over €586 per week net and less than or equal to €960 per week net. TWSS is open to employees who have been temporarily laid off or placed on short-time.

The most recently published Revenue guidance on TWSS confirms that an employer is eligible to avail of the scheme if they meet the following: employer continues to employ staff (or a proportion of them); employer's turnover in the period 14 March to 30 June will decrease by at least 25% or customer orders coming into the business will reduce, at least, by this amount over the same period; the employer's business is experiencing negative economic disruption as a result of the COVID-19 pandemic; and, the employer is in a situation of "*inability to pay wage payments and other outgoings fully*".

There is also the COVID-19 Pandemic Unemployment Payment (**PUP**). PUP is available to employees and the self-employed who have lost their job (or ceased trading if self-employed) on (or after) 13 March 2020 due to the COVID-19 pandemic.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

In certain circumstances, yes. If an employee whose job cannot be done from home chooses not to come to work, and their place of work remains open, they should be clearly informed that they are expected to attend for work and if they do not they are considered to be on unauthorised, unpaid absence.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

In line with Irish Government guidance, if an individual develops symptoms of COVID-19, they are required to self-isolate. The employer may instruct the individual to stay away from the workplace and self-isolate on that basis.

The Irish Government has also introduced even stricter guidelines from 27 March 2020 until 12 April 2020 (which may be extended) that people should only travel to and from work if they are providing an essential service. Therefore, unless the work is an essential service, that work should be done from home, if possible.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

Medical information/health data (including information obtained from temperature screening) is a "special category of data" under GDPR. Employers therefore need to identify a legal basis under Article 9 GDPR and/or the Data Protection Act 2018 before asking employees for this information. These include: Article 9(2)(b) GDPR and section 46 the Data Protection Act 2018 permit the processing of health data where necessary and proportionate for the purposes of exercising or performing any right or obligation under Irish employment law - employers are legally obliged to ensure the safety, health and welfare at work of their employees; and, where organisations are acting on the guidance or directions of public health authorities, Article 9(2)(i) GDPR and section 52 the Data Protection Act 2018 is likely to permit the processing of health data where necessary for reasons of public interest in the area of public health, and subject to suitable safeguards.

It would also be prudent for employers to carry out a data protection impact assessment (**DPIA**) prior to collecting any health data. The GDPR requires a DPIA to be carried out where data processing is likely to result in a "high risk" to the rights and freedoms of

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natural persons. A DPIA is mandatory where there is large-scale processing of special category data. Employers should ensure they keep a record of any decision-making process regarding measures implemented to contain COVID-19, which involve the processing of personal data.

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

The identity of an affected employee should not be disclosed to their colleagues or any other third parties unless there is a clear legal basis for such disclosure. An employer would, however, be justified in informing staff that there has been a case, or suspected case of COVID-19, in the company, in order to require employees who may have been in contact with the affected individual to self-isolate and work from home. An employer should ensure that any internal communications about an employee affected or potentially affected by COVID-19 is limited to the minimum information necessary. An employer may also be required to disclose information about the affected individual to the HSE and/or other public health authorities in order for them to carry out their functions.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

An employer may be justified in requesting employees to inform them of any recent travel and future travel plans, so that the employer may best assess the health risk to the employee and their fellow employees and implement measures, if necessary, to minimise this risk. However, employers will need to ensure compliance with the GDPR's core data protection principles (such as transparency, security, data minimisation and accountability) and that they have a clear legal basis under the GDPR to collect such data under Article 6 of the GDPR.

For the period of 27 March 2020 until 12 April 2020, the Irish Government guidance is that everyone should stay at home apart from some limited exceptions, such as travel to and from work if it is an essential service, food shopping, brief exercise, etc. Therefore, the effect is that employees' personal travel is severely restricted.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Employers have the same health and safety obligations to employees who are working from home as when employees are working in the office. Strictly speaking, individual risk assessments are required by law in respect of home working arrangements. However, in light of recently published Irish Health and Safety Authority guidance and the fact that these home working arrangements are presumably an interim measure, employers could adopt a risk-informed approach to conducting individual risk assessments.

It is of particular importance to maintain the confidentiality and security of confidential and commercially sensitive data when employees operate under a working from home arrangement.

Additional information on COVID-19 issues in this jurisdiction

The most recently published revenue guidance on TWSS:

<https://www.revenue.ie/en/corporate/communications/covid19/temporary-covid-19-wage-subsidy-scheme.aspx>

Further information on PUB and how to apply for it is available from the DEASP here:

www.gov.ie/en/service/be74d3-covid-19-pandemic-unemployment-payment/

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ISRAEL

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

In response to the coronavirus crisis, the National Insurance Institute and the National Employment Service issued more flexible guidelines for obtaining unemployment benefits (including during an unpaid leave of absence of 30 days or more). These more flexible guidelines may be relevant to employers as they plan how to restructure their workforces.

Although not specifically oriented towards employers, the government has also established a special loan program for small- to medium-sized businesses, created a grant program for businesses impacted by the coronavirus crisis (including self-employed workers), and offered self-employed workers the ability to withdraw from accrued pension savings without tax implications (within certain limits). On April 2, 2020, the government issued emergency regulations that go into detail regarding the scope and conditions of the aforementioned grant for self-employed workers and business owners, including that the grant will be limited to NIS 6,000.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Yes. In principle, an employer that continues to operate (according to the new instructions and limitations), even if partially, can require that an employee attend work and discipline an employee for failing to do so. Please note that the government's emergency regulations require full or partial closure for employers in multiple industries. In other cases, employers are subject to restrictions on the number and types of employees who can attend the workplace. There are, of course, exemptions from these restrictions – including, for example, exemptions for employers providing vital basic services (like grocery stores and pharmacies) and employers that constitute “vital enterprises.”

However, this is true only so long as the employer acts in good faith and follows the government requirements and regulations. These require, for example, that an employer may not permit an employee who is subject to mandatory home quarantine to attend work at the workplace during the quarantine period.

What must employers do when they know or suspect an employee has the virus?

- a. Can employers require employees to stay home?
- b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?
- c. Are employers able to/required to notify other employees?

First and foremost, we recommend taking immediate action if there is an employee with a confirmed case of COVID-19 – *i.e.*, obtaining guidelines from the Ministry of Health, following them with respect to other employees that came into close contact with the infected person (including prompt notifications), and disinfecting and cleaning work areas.

There is no specific obligation on an employer to inform other employees about a coworker who is exhibiting symptoms or who has a confirmed case of COVID-19. However, consistent with general duties regarding workplace safety, we advise informing any employees who had close contact with a coworker who has a confirmed case of COVID-19 (or serious symptoms consistent with COVID-19) about potential risks, but without naming the employee at issue (unless the employee's consent was obtained which is usually the case).

Under an earlier version of the Emergency Regulations (Novel Coronavirus) (Restriction of Activity), 2020, individuals entering the workplace had to fill a statement declaring that they do not suffer from certain symptoms (fever, cough or difficulty breathing). Under the current version of those regulations, individuals entering the workplace no longer need to fulfill a statement. Instead, the current regulations state that **employers, or anyone on their behalf, are required to ask any individual entering the workplace (including employees) the following questions:** (a) Do you have a cough?; (b) Do you have a fever of over 38°C or have you had such a fever during the past week?; (c) Were you in contact with a confirmed patient in the past two weeks?; (an employer should otherwise refrain from asking for medical information or performing medical tests, unless absolutely necessary.)

Employers **must prevent entry to the workplace from any individual who responds positively to any of the above questions** (unless the individual has a chronic cough, such as asthma or an allergy).

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In addition, employers are required to organize a method of **measuring temperature by way of non-invasive means**, at the entry to the workplace, where possible. In cases in which temperature is checked – individuals with a fever of over 38°C will not be permitted into the workplace. Moreover, according to an amendment to the National Health Order, as a general rule, the employer is responsible to ensure that employees comply with the requirement to wear facemasks.

In addition, an employer may not allow an employee who is subject to mandatory home quarantine to attend the workplace – this includes individuals with confirmed cases of COVID-19 (“confirmed patients”), individuals who have returned from abroad within the last 14 days, anyone who has come into close contact (*i.e.*, been within 2 meters for 15 minutes or more) with a confirmed patient within the last 14 days, or anyone with a fever and respiratory symptoms.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

As a general rule, the answer is – no. However, in principle, an employer may refuse to approve annual leave for an employee. Thus, an employer is not required to approve vacation leave for an employee who will engage in an activity that will result in mandatory home quarantine or that runs contrary to Health Ministry guidance. In such cases, the employer can use this authority in an effort to prevent an employee from engaging in those types of activity. Please note, however, that the general restrictions in Israel surrounding the coronavirus crisis are very broad, so this question will arise infrequently, particularly given the most recent circumstances.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Relevantly, there is no specific obligation for employers to reimburse for the costs of working remotely (*i.e.*, internet connection, etc.), and it is not common for employers to do so. Under these circumstances, Israeli employers are attempting to be flexible, within reason, in accommodating remote work (*i.e.*, taking necessary equipment from offices, providing IT support, creating special arrangements with specific employees, etc.).

Please note, that there are benefits that are related to work from the employer’s actual premises (such as travel allowance) that the employee may not be entitled to while working from home.

As for Insurance, the employer should confirm that any work from home is covered by its insurance policy.

The employer should also continue to keep record of the working hours to the extent possible in order to comply with the relevant law provisions.

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ITALY

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

The Italian Government has provided specific social programs and related financial resources (additional to the pre-existing ones) shaped to assist employers and employees during the COVID-19 emergency. These programs are intended to help large businesses as well as very small businesses (the latter not being covered by traditional instruments). While being suspended or having their working time reduced employees receive an allowance from the government, with a cap of 1,129 Euro net per month.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Employers who are authorized to continue operations can require employees to attend work, and in principle, employees can be disciplined if they do not report to work. However, in these days of very high emergency, large manufacturing companies are experiencing high absenteeism rates due to sick leaves (in fact people are not going to work due to fear to access the workplace).

As concerns the categories of employers who are authorized to continue business, see set of explanatory slides in the second link included below.

The government also introduced several extraordinary types of leave and other measures to encourage the life and work balance in times of emergency and closure of schools.

What must employers do when they know or suspect an employee has the virus?

- a. Can employers require employees to stay home?
- b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?
- c. Are employers able to/required to notify other employees?

Employers must require employees who are known or suspected to have the virus to stay at home. When possible, advice of the company's internal practitioner is recommended to support the request. Employers must also prevent access to the work place to those who have been close to COVID-19 positive persons.

After an initial restrictive opinion of the Data Protection Authority, an health and safety protocol signed by employers and unions suggests employers to take temperature of employees who access a site and require those with temperature $>37.5^{\circ}$ or other relevant symptoms to return at home. This procedure needs however to comply with certain requirements to avoid data protection issues.

Employees are required to notify other employees if COVID-19 cases exist in the company.

In all cases above specific rules for the protection of the employees' personal data must however be adopted.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Yes, by the way at this time all citizens in Italy are prohibited by law to move from their homes, unless this is strictly necessary for working reasons (please note that only certain core business are now allowed to continue operations), other essential and urgent personal needs (e.g. assist elderly relatives) or medical reasons. All people are required to self-certify such reasons and thus justify any movement in a given day and at a specific time. The statement shall be handed over to police officers at checkpoints. False statements are punished with a criminal fine or even harder criminal sanctions.

COVID-19 / Local Responses to Global Employee Impact**With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?**

The government recommends maximizing the use of home work whenever the role can be performed remotely. Although remote working is normally permitted only with the employee's consent, from the onset of the emergency it is possible to adopt such modality of work in the absence of individual agreements. Other bureaucratic steps have also been lightened, including in terms of health and safety information obligations, to allow the immediate implementation of work at home.

Everybody is working in an emergency situation and so far we have not been informed by clients about supervision of work or cybersecurity risks being specifically sensitive issues. Maybe it reveals a lack of attention for these aspects, but it is substantially up to the single employers to make their employees sensible about the importance of data security when working out of the company's premises. Law provisions allow under the ordinary rules to protect confidentiality and sanction employees who do not comply with them, even in this emergency situation.

Additional information on COVID-19 issues in this jurisdiction

<https://www.legance.com/news/>

https://www.linkedin.com/posts/legance_italycovid19lockdown-activity-6649645417195675648-XR7g

<https://www.legance.com/stayathome-and-the-italian-employment-legislation/>

Silvia Tozzoli, Elena Ryolo | Legance – Avvocati Associati

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JAPAN

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

When the employers who suffer from the business downturn maintain employment by giving leave and temporary transfer to a different company, rather than dismissing employees, a part of leave allowance and wages would be granted ("Employment Adjustment Subsidies"). For employers whose businesses are affected by COVID-19, qualifications for application for such subsidies are significantly relaxed to cover a wide range of businesses.

When companies give special paid leave (excluding normal annual paid leave under the Labor Standards Act) to employees who need to take leave from work to take care of their children in response to temporary school closures, subsidies will be provided to the companies.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Employers can require employees to attend work, and employees can be penalized if they don't report to work, as long as it does not violate the employers' obligation of consideration for the safety of employees.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Yes.

As to an employee infected with COVID-19, the prefectural governor may restrict attendance at work and recommend that such employee be hospitalized (Act on the Prevention of Infectious Diseases and Medical Care for Patients with Infectious Diseases, Articles 18 and 19). It is considered that the employer can prohibit such employee from engaging in work, without obligation to pay his/her wages for the relevant period.

On the other hand, when an employer prohibits attendance at work of an employee suspected to be infected with COVID-19, the employer has to pay at least 60% of his/her wages for the relevant period, subject to the conditions in the rules of employment.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

In the case where it is necessary for an employer to fulfill the obligation of consideration for the safety of other employees, an employer can do so.

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

In the case where it is necessary for an employer to fulfill the obligation of consideration for the safety of other employees, an employer may and shall notify the fact that an employee has been confirmed to be infected.

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Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Employers can only ask employees to voluntarily refrain from their activities outside work and cannot prohibit a certain activity outside work.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

No.

Rikisuke Yamanaka, Keiko Saito | Ushijima & Partners

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MEXICO

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

There are few measures taken by the federal social security and housing agencies allowing employees to apply for a simplified medical leave through electronic means in case of presenting symptoms associated to the outbreak, as well as to get a deferral of up to 6 monthly installments in the payment of mortgages issued by the National Housing Fund for Workers. In addition, employees shall be protected by an unemployment insurance policy that would cover up to 3 months of mortgage payments in case of redundancy or termination of employment. Some State (local) governments, have enacted certain measures allowing for exemptions or deferrals in payroll contributions in charge of employers.

The Ministry of Labor and Social Welfare (STPS) has declared that companies shall continue paying salaries and benefits during this period and, where required, they shall mutually agree on temporary reduction of work and modification of other employment conditions.

The Federal Government ordered on March 30, 2020, the reinforcement of sanitary measures and suspension of non-essential activities and may announce some new measures in the upcoming days.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

The new order by the Federal Government, pending to be published, instructs the suspension of all activities that are non-essential for containment of the outbreak, and provides a list of essential activities that shall continue operations under strict sanitary measures (i.e. medical services, pharmaceutical, sanitization, chemical, water supply, gas and power, transportation, among others). This means that companies whose activities are not listed in the order, must temporarily suspend activities and leave the minimum personnel for maintenance of equipment or systems as applicable. In view of these new circumstances, only employees engaged in essential activities must report to work, unless they are exempted under the definition of vulnerable persons (employees over 65 years, pregnant women, women in lactation period, employees under 18 years and employees presenting certain chronic conditions or risk factors amid COVID 19 morbidity causes).

Companies could agree on special permits for employees with other valid reasons for not attending to work during this period which could include self-isolation decisions, caring for family members or children during suspension of school or nursery services, etc.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Yes. Employers have the general duty to comply with all applicable safety and health regulations, including those mandated by the competent authority in the event of a health contingency, in order to prevent contagion. Employees, on their side, are obliged under Mexican Law to inform employers about any contagious disease that they suffer. Please note that the Ministry of Labor and Social Welfare (STPS) and the Ministry of Health (SS) have issued a list of FAQs and an Action Guide for employers in connection with the COVID-19 outbreak, repeatedly indicating that in case employees present symptoms or suspect they may be infected, they shall stay home, communicate with the Ministry of Health and observe the recommendations established for such effects. The Mexican Institute of Social Security (IMSS) has also authorized employees to complete online questionnaires to obtain a diagnosis and, if applicable, a temporary sick leave without need to visit a clinic or hospital.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

Yes, employees are obliged under Mexican Law to undertake medical examinations instructed by employers to identify any contagious or incurable disease. Employees are also obliged to inform their employers on the reasons preventing them to attend work. Further, the Action Guide for employers recommends to check employees' temperature and symptoms before they access the workplace and, if applicable, direct the employee to leave work.

COVID-19 / Local Responses to Global Employee Impact**What must employers do when they know or suspect an employee has the virus?****c. Are employers able to/required to notify other employees?**

The General Health Law obliges employers to notify competent health authorities of any disease that appears in the form of an outbreak or epidemic, or subject to international surveillance. Further, based on the Action Guide, employers should (i) identify those workers who have had contact with infected employees and ask them to stay home and monitor symptoms, and (ii) keep record of sick employees and evaluate potential contagion cases. Although employees' medical condition is considered as personal sensitive data under current data privacy laws, its collection, use and processing is feasible in case of health contingency for prevention purposes.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Yes, employers can implement a travel restriction policy, advising against non-essential travel and requesting employees to self-isolate after returning to their countries. Employees working remotely or performing home office shall not be affected in their compensation.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

The most sensitive issues or concerns are data protection and cybersecurity, given that many companies have not developed sufficient safety measures or policies for protecting data of their employees and their own business information under full operation mode outside their premises. Safety and health is also an issue that companies focus on while their employees work from home, hence many are attempting to implement extraordinary policies or guidelines regarding measures that employees must follow while working remotely.

Nadia González | Galicia Abogados

Rafael Vallejo Gil, Juan J. Soto Arias | Chevez Ruiz Zamarripa

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NETHERLANDS

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

On 17 March 2020 the Dutch government published several emergency measures to support Dutch business dealing with the coronavirus. One of these measures is the new regulation compensation for wage costs, the Temporary Aid Scheme to Maintain Employment (in Dutch: "*Tijdelijke noodmaatregel overbrugging voor behoud van werkgelegenheid*" or the "**NOW**"). On 31 March 2020 the NOW has been published. Please find a non-exhaustive summary of the main details of the NOW below:

The purpose of the NOW is to prevent unemployment. Under the NOW, employers continue to pay the employees' salary for 100%, while receiving a substantial compensation ("aid") towards the wage costs of up to 90% of the wage bill (up to a certain maximum) from the Employee Insurance Agency ("**UWV**").

In order to qualify for the NOW, the employer must demonstrate that it expects at least 20% loss of turnover. The loss of at least 20% of turnover must occur during a three-month consecutive period. Employers may calculate the loss of turnover at their own discretion over a reference period starting from 1 March, 1 April, or 1 May 2020. The turnover will be compared to the turnover earned in the period January through December 2019, divided by four. The maximum entitlement to aid, paid in the event of a 100% loss of turnover, is capped at 90% of the overall wage bill. If the loss of turnover is less, the aid will also be proportionally less. The aid is calculated, in principle, on the basis of the SV wages paid to workers employed in the month of January 2020. The wage of each individual worker in respect of whom aid may be requested is capped at twice the maximum daily wage per month (recalculated for the three-month period). This means that no aid is given in respect of gross monthly wages in excess of € 9,538. Additional charges and costs, such as employer's and employee's contributions to pension schemes and the accrual of holiday allowance will also be compensated; it has been decided to set the employer's charges at a fixed percentage of 30% for all instances.

During the time that the aid is granted, the employer is expected to make every effort to keep the wage bill as equal as possible and the employer may not request permission from the UWV to give notice of termination of employment contracts due to business economic reasons in the period between 18 March and 31 May 2020.

If the request is granted, the UWV will pay an advance of 80% (in three instalments) of the aid as calculated on the basis of the information supplied with the request regarding the anticipated loss of turnover. Requests for aid may be submitted as from 14 April 2020, but the UWV aims at making it possible to submit requests for aid as from 6 April 2020. The aid under the NOW will initially be granted for a three-month period (from March through May 2020). The NOW may be extended for three months.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Employees must in principle work from home. This could be different when the employee has a profession that must keep Dutch society running during the Corona outbreak (e.g. in the field of healthcare, public transport, food chain). In case an employer has taken all reasonable measures to provide for the health and safety of its employees, including the measures advised by the National Institute for Public Health and the Environment (RIVM), and there is no opportunity to work from home, an employer can in principle legally require an employee to attend the workplace and in such case, non-attendance can in principle be sanctioned with appropriate disciplinary measures. This will be different for employees with a delicate health situation; it is advisable to discuss with the company doctor where these employees should perform their work.

Employees who are not willing to attend the workplace because they have to take care for their children while schools are closed, will be entitled to a short period of paid leave (contingency- and other short-term leave of absence) to sort out care arrangements.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

The Dutch government has advised that until 6 April 2020 all employees work from home as much as possible, unless they work in professions crucial for Dutch society during the Corona outbreak (e.g. in the field of healthcare, public transport, food chain).

If an employee is not working from home displays Coronavirus-like symptoms, the employer may request its company doctor to establish whether the employee is sick. If the employee is indeed considered sick, the employer can instruct the employee to remain at home until fully recovered.

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What must employers do when they know or suspect an employee has the virus?

- b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

Under the General Data Protection Regulation (GDPR) an employer is not allowed to ask employees for their medical data and process such data. The employer may ask employees to monitor their health and measure their temperature themselves. The employer may advise an employee to contact its company doctor for a Coronavirus (COVID-19) test. The employer itself may not undertake a Coronavirus (COVID-19) test vis-à-vis an employee.

What must employers do when they know or suspect an employee has the virus?

- c. Are employers able to/required to notify other employees?

Based on general health & safety legislation, an employer has the obligation to safeguard the health and wellbeing of its employees. An employer has to notify its employees in case a co-worker is infected with the Coronavirus (COVID-19), assuming that this is necessary to protect the health and wellbeing of the employees involved. Privacy regulations should be followed, e.g. by revealing as less information on the individual concerned as possible.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

As a result of the Corona crisis Dutch government has advised not to travel and to limit any social contacts until 6 April 2020. An employer may require its employees to comply with government advice. We see companies requiring employees to ask prior approval for international travel and under circumstances deny such approval. The same applies to the request of an employee to work from an overseas location. Under Dutch law an employee may request another work location and the employer must, in case of denial, substantiate why in writing. The Corona crisis will most probably qualify as a major reason for an employer to forbid an employee to travel abroad or to work from an overseas location. We expect an update of government instructions for after 6 April any day now.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Apart from general requirements as to working from home the following should be considered in these Corona times. An employer generally must ensure the employee's health and safety in the workplace, even if the employee works from home due to the Corona crisis. Most employers provide enhanced teleconferencing tools to their employees such as Teams and Zoom to make working from home easier. Employers may issue a temporary work from home policy setting out their expectations or instructions as to daily work schedule, overtime policy, reporting on illness or injuries, data privacy and protection of proprietary company information.

Additional information on COVID-19 issues in this jurisdiction

For further information about the NOW scheme please be referred to:

<https://www.loyensloeff.com/en/en/news/news-articles/qa-temporary-aid-scheme-to-maintain-employment-n18880/>

<https://www.loyensloeff.com/nl/en/news/news-articles/coronavirus-and-reduction-of-working-hours-n18620/>

<https://www.vandoorne.com/en/knowledge-sharing/Concession-Measure-Preservation-Employment/>

For information about other Dutch emergency measures to support Dutch business dealing with the Coronavirus please be referred to:

<https://www.loyensloeff.com/nl/en/news/news-articles/coronavirus-dutch-tax-measures-for-businesses-n18668/>

<https://www.vandoorne.com/en/knowledge-sharing/Concession-Measure-Preservation-Employment/>

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For further information please be referred to:

<https://www.loyensloeff.com/nl/en/news/news-articles/coronavirus-qa-employment-benefits-n18678/>

<https://www.vandoorne.com/en/knowledge-sharing/Concession-Measure-Preservation-Employment/>

Klaas Wiersma, Marloes Diepenbach | Loyens & Loeff

Els de Wind, Marjolijn Lips | Van Doorne

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NICARAGUA

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

Neither protections nor additional resources have been enacted or authorized by the Nicaraguan government for these purposes.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Employers can require employees to attend work, and can discipline or terminate employees who do not report to work if they are otherwise not covered by a protected leave (i.e. sick leave, disability). Employers should be mindful of applying such policies consistently across all employees and not treating employees differently.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

No. This requirement must come from the corresponding governmental health authority (e.g., social security institute, health ministry), confirming the disease or suspicion of it, ordering the employees to stay home via a sick leave. However, it is possible for the employer and employee to reach a mutual agreement for the latter to stay home.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

No. Employees have the right to consent, or not to consent, to disclose their health information. Tests can be taken only when ordered by the Labor Ministry or the Health Ministry, except the pre-work tests and the annual medical tests or as indicated by medical criterion, and only in connection with their labor-position risks.

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

No.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

In general terms, no. However, remote working conditions and/or restrictions may be mutually agreed by and between the employer and employee.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Employees are covered by workers' compensation if they experience injuries or illness arising out of and in the course of working at home. Employers may be required to offer an accommodation to employees with disabilities who are telecommuting, as well as to provide all tools, materials and equipment required or necessary for the employee to conduct his/her tasks at home, without charges

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to employers. Employers should be cognizant of immigration issues, including how remote work (out-of-Nicaragua) may impact foreign employees with temporary and/or working visas. Immigration advice is recommended for these matters.

Additional information on COVID-19 issues in this jurisdiction

[Media Room about COVID-19 in Central America](#)

Favio Batres | BLP

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PARAGUAY

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

Yes, since the second week of March, Paraguayan government has been adopting different measures to help businesses affected by the epidemic, among them:

- The Ministry of Labor, Employment and Social Security (“**Ministry**”) has encouraged employers to grant both accrued and anticipated vacations to employees. In line with that, the Ministry allows employers to grant vacations without the mandatory 15 -day advance notice to the employee.
- The Social Security Agency (“**SSA**”) will receive funds to both cover sick leaves and grant compensation to workers whose labor contracts are suspended or terminated due to the epidemic (there is no unemployment insurance available in Paraguay).
- A subsidy equal to 25% of the minimum salary for two months for informal employees of MSMEs that agree going through a formalization process before the Ministry of Industry and Commerce, SSA, and Ministry.
- The Ministry issued new regulation on suspension of labor contracts, laying down a more cumbersome procedure when suspension is without either employees’ consent or full salary payment.
- Payments to social security corresponding to March, April and May can be divided in up to 18 monthly installments, free of penalties and interests.
- Low-rate and easy-to-access loans will be available to companies, particularly to MSMEs, through different financial entities of the Government.
- To fulfill these goals, Congress authorizes the Executive Power to (a) make some changes to the current annual public budget and (b) take loans up to USD 1.6 billion.

Can employers require employees to attend work? Can they be disciplined or penalized if they don’t report to work?

Until April 12, employees that must attend work are those from sectors exempted from quarantine and not falling under any of the attendance exceptions. If not attending, these employees are subject to regular labor law penalties, including dismissal if not coming back to work under written request to do so.

The sectors excluded from quarantine are medical services, food production, distribution and retail, telecommunications, financial services, public and trade transportation, oil, media, urgent foreign trade, mortuary services, public works and services, police, army, firefighters, garbage collection, and, in general, business supplying essential products and services

Workers exempted from attendance in said sectors are those (a) over 60 years, (b) underdoing pregnancy or breastfeeding, (c) subject to mandatory isolation, (d) handicapped, and (e) whose duties can be performed remotely, unless they perform medical or essential services that have necessarily to be rendered on-site.

All workers of all the other sectors are released from attendance until April 12, when quarantine is supposed to end. Thereafter, workers able to perform services remotely will continue to be released from attendance, though other exceptions and restrictions may be laid down before April 12.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

When taking notice of a confirmed or suspicious case at workplace, employers must notify the sanitary authority and grant a five-day mandatory leave to the employee, subject to extension under medical prescription. Likewise, when suspecting or confirming an infection, employees must notify employers and go through self-isolation. Employers must also notify the Ministry of sick leaves granted to infected employees.

COVID-19 / Local Responses to Global Employee Impact**What must employers do when they know or suspect an employee has the virus?**

- b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?**

Employers can test employees at work and act accordingly.

What must employers do when they know or suspect an employee has the virus?

- c. Are employers able to/required to notify other employees?**

If taking notice of a confirmed case, employers must take needed sanitary measures, which include checking if other employees that have had contacts with the infected workmate show symptoms.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Regulation is silent. However, in addition to the restrictions already in force for the whole population beyond workplace (no agglomeration of people, no social events, no traveling abroad), employers might apply special sanitary policies if the particular nature of the labor carried out by the employee justifies so.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

According to Emergency Law 6524/2020, home office regime applies to all jobs able to be performed remotely. This opens the possibility of work injuries and illness taking place at home. Upcoming regulation of said Law may address the issues expressly.

Rodolfo Vouga, Rodrigo Fernández de Nestosa, Perla Alderete, Georg Birbaumer | Vouga Abogados

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PEOPLE'S REPUBLIC OF CHINA

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

Yes, in January 2020, the Ministry of Human Resources & Social Security issued a "Notice concerning Proper Handling of Labor Relationships during the Coronavirus Pneumonia Prevention and Control Period" which encouraged employers not to retrench employees by adopting flexible working hour arrangements, working from home by using the phone and going online, salary reductions, etc., as well as allowed the reduction/exemption of the employer's contribution rate towards the mandatory social insurance fund for the next several months. However, as the government is now mainly focusing on helping companies to survive this crisis, there are no special protections for employees in the event of business closures due to lack of business or lockdowns.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Where an employer is allowed to resume production and operations, they should implement the necessary anti-epidemic and labor protection measures and take active steps (in conjunction with the trade union, if any) to call on the employees to return to work. If despite these steps, an employee still refuses to return to work for other unjustified reasons, the employer is allowed to impose sanctions against the employee in accordance with the law (essentially, this would mean whether the employer is able to discipline the employee – e.g., for absenteeism – based on the provisions of the employee handbook, which must be duly and properly enacted under the law).

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Yes. If an employee is suspected to have the virus, the local government authorities and medical institutions (but not the employer) will play major role to quarantine the employee and restrict his/her activities. For COVID-19 patients, suspected COVID-19 patients and COVID-19 close contacts who are under quarantine for medical treatment or medical observation and those who cannot provide normal labor services due to the implementation of quarantine or other emergency measures by the government, the employers must pay their salary during this period.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

Yes, the employee is obligated to provide the relevant information upon request. It is also a common practice for many employers to take the employee's temperature during this special time.

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

Yes, so that the other employees who were in close contact with the employee suspected of having the virus could cooperate with the local authorities for quarantine and to undergo the relevant medical tests. Where possible, this should be done without disclosing to the public the name of the said employee, in order to preserve his/her privacy.

COVID-19 / Local Responses to Global Employee Impact**Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?**

There are no specific laws on this issue. However, under the current unique circumstances of the outbreak, such requirement (especially requiring employees to follow the relevant laws and regulations on the prevention/treatment of infectious diseases and local government's quarantine measures) should be acceptable and reasonable especially where a breach might expose other employees and other persons to the risk of contracting the virus. That said, it remains to be seen if the labor dispute arbitrators/judges will support a termination on this ground, as they will decide on a case by case basis. (In a recent case that went viral in China, an expat working for Bayer who violated the local government's requirement of home quarantine was immediately dismissed by Bayer and requested to leave China.)

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

No specific legislation on this issue, and general work from home best practices should apply. Employers should enact a comprehensive set of guidelines for work from home, including data protection and cyber-security.

Joonho Tan | TransAsia Lawyers

Changchun Yuan | Broad & Bright

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PERU

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

Yes, the Peruvian Government has recently introduced the following measures:

- **Partial release of a labor benefit:** The employees are allowed to request a partial cash disbursement of the CTS, which is a biannual bank deposit made by the employer that can be released upon the termination of the employment relationship. The Government has allowed employees to withdraw up to S/ 2,400 (USD 680.00 approx.).
- **Temporary suspension of the private pension fund contribution:** Employers must not withhold from their employees registered with the Private Pension System, the following concepts: (i) the pension fund contribution equivalent to 10% of the salary paid in April, and (ii) the corresponding commission to be paid to the Pension Fund Administrators. However, a small percentage will be still retained by the employer in order to cover pension related insurances.
- **Allowance for employers:** Employers will be entitled to receive a Governmental allowance equal to 35% of all salaries of employees (i) subject to fifth category income tax, (ii) registered in the electronic payroll in January 2020, (iii) with salaries not greater than S/ 1,500 (USD 430 approx.) per month, (iv) who were still employed on March 15, 2020. The Peruvian Tax Authority will verify which employers are entitled to this benefit and for how much.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

In order to deal with the COVID-19 effects, the Peruvian Government has established a Sanitary Emergency (SE) of 90 days since March 12th, 2020, and a State of Emergency linked to a Mandatory Quarantine (MQ) of 28 days since March 16th, 2020.

During the 90-day SE, employers must identify and prioritize the remote work of employees considered within the category of "group of risk" due to age (60 years old or older) and clinical factors (previous illnesses such as high blood pressure, diabetes, etc.). If remote work is not feasible, the employer cannot require those employees to attend and must grant them a paid leave subject to compensation with work to be performed in the future.

For other employees that do not fit in the "group of risk" category, remote work is recommended but not mandatory; thus, wherever it is not feasible nor preferred, employers are free to request the employees' attendance to the workplace and to issue disciplinary measures in case they do not report to work.

As an exception, during the 28-day MQ period starting from March 16th until April 12th, 2020, there is a limitation to the freedom of movement (with very few exceptions) and, consequently, most employees are prevented from attending the workplace.

The few employers that are allowed to operate at their workplace during the MQ period can request the employees' attendance following the same rules for remote work that apply during the SE.

If the employers that are not allowed to operate at the workplace during the MQ period cannot implement remote work, then they must reach an agreement with the employees to define what to do (paid leave, vacations, etc.). If there is no agreement, then the employer must grant a paid leave subject to future performance compensation.

What must employers do when they know or suspect an employee has the virus?

- a. Can employers require employees to stay home?
- b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?
- c. Are employers able to/required to notify other employees?

If the employer knows or suspects that an employee has the virus, the prudent way to proceed is to send the employee to a medical consultation. In case the medical doctor concludes that the employee has the virus, the employee will receive a medical paid leave at home or the hospital.

The employer can require the employees to inform about any positive result on COVID-19 tests as well as set as a work obligation to acquiesce to an examination to rule out the disease.

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Finally, although employers are not required to notify other employees, it should consider notifying those employees who have been in contact with the affected employee, without giving his or her identity. Additionally, there is the obligation to inform the Ministry of Health about the propagation of the virus and any risky situation and to allow their representatives to enter the workplace in order to identify possible sources of infection.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

There is no need to require this limitation to the employees during the State of Emergency – starting from March 16th until April 12th – because there is a general mandatory quarantine in force. Outside this mandatory quarantine period, we consider that requiring such limitation is not possible as long as there are no official state restrictions of that nature.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

The Government issued specific rules that apply to remote work:

- The employer must inform the employee its decision about implementing remote work as well as the term, means to provide services, party in charge of providing the means, the confidentiality and data protection rules, and the health and safety measures and conditions to be taken. The employer must also inform the channels available for the employee to inform any risks or work related accidents while working remotely.
- If the employer uses different systems/platforms/applications to those used before implementing remote work, that require training, it must provide the corresponding training session to employees for the adequate use of said means, prior to implementing remote work.
- The employee must also follow the security measures and conditions, the regulations about information security and the data protection and confidentiality.
- The equipment and tools to carry out the remote work may belong to the employer or the employee.

José Balta | Rodrigo, Elias & Medrano

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PHILIPPINES

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

On March 24, 2020, the President signed into law Republic Act No. 11469 or the Bayanihan Act which authorizes the President to adopt measures to respond to the COVID-19 pandemic, such as providing subsidy to low income households and imposing alternative working arrangements for certain industries. The President is also authorized to ensure the availability of credit by, among other things, lowering lending rates, granting incentives for the manufacture or importation of critical or needed equipment or supplies, moving statutory deadlines for filing tax returns and payment of taxes, and to direct financial institutions to implement a 30-day grace period for loan payments, without incurring penalties.

The Philippine Department of Labor and Employment (“DOLE”) has also launched the COVID-19 Adjustment Measures Program (“CAMP”), a PhP1.3 billion safety net program that offers financial support to affected workers in private establishments that have adopted flexible work arrangements (“FWAs”) or faced temporary closure during the COVID-19 pandemic. Under CAMP, the government will provide a one-time financial assistance of PhP5,000.00 to all affected workers in lump sum, regardless of employment status, provided that the employees are not able to receive their regular wages due to a reduction of work hours, implementation of FWAs, or suspension of operations. DOLE has clarified that foreign workers and top management are not entitled to financial assistance under CAMP. The DOLE is also implementing a separate program for displaced marginalized workers, as well as the underemployed and seasonal workers by providing them emergency employment.

Can employers require employees to attend work? Can they be disciplined or penalized if they don’t report to work?

Generally, employers may require employees to work, subject to certain conditions or restrictions. Under Republic Act No. 11058, or the *Act Strengthening Compliance with Occupational Safety and Health Standards*, it is the employer’s duty to provide a workplace free from hazardous conditions that are causing or are likely to cause illness or death to employees. Employees, on the other hand, have the right to refuse work without threat or reprisal from the employer if an imminent danger exists in the workplace that may result in illness or death. Moreover, under DOLE Labor Advisory No. 1, series of 2020, employees who fail or refuse to work by reason of imminent danger resulting from natural or man-made calamities (including pandemics) shall not be subject to any sanctions by employers.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Yes. The Philippine Department of Health (“DOH”) has issued guidelines requiring any person under monitoring or investigation, based on his or her symptoms, travel history, or exposure to a person with a confirmed case of COVID-19, to stay at home and be placed under quarantine.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees’ temperatures)?

Yes. The employer may request medical information from, or undertake taking the temperature of, its employees. The DOLE has directed employers to monitor the health of workers, particularly those with fever and other flu-like symptoms and those who have traveled to or worked in countries affected with COVID-19. In workplaces where workers are evidently at risk of infection, employers are directed to install a screening program on COVID-19. (DOLE Labor Advisory No. 4, series of 2020) The conduct of temperature checks may form part of the screening procedure. Employers are also required to report to the DOH suspected COVID-19 cases.

We note that in obtaining medical information of employees, the Philippine National Privacy Commission (“NPC”) issued a bulletin that such personal information sufficient to comply with regulations of the Philippine government on COVID-19 may be lawfully collected (NPC PHE Bulletin No. 3-2020).

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What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

Yes. The NPC has advised that employers may make the necessary notices internally but without disclosing the identity of the person who is COVID-19 positive. This is to enable the employees with exposure to undergo self-quarantine and to take necessary precautionary and curative measures. Disclosure of the identity of the affected individual should only be to the proper government authorities (NPC PHE Bulletin No. 3-2020).

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Yes, but more to strictly comply with the quarantine regulations in place. Notably, the national government placed the entire island of Luzon under enhanced community quarantine ("ECQ") from March 16, 2020 to April 13, 2020. Under the ECQ, mass public transport facilities are suspended, and land, air, and sea travel to and from Luzon is restricted. Moreover, only private establishments providing basic necessities and such activities related to food and medicine production (e.g., public markets, hospitals, pharmacies, food preparation and delivery services, water-refilling stations, manufacturing and processing plants of basic food products and medicines, banks, money transfer services, power, energy, water and telecommunications supplies and facilities) shall be open. Many local government units outside Luzon have also begun imposing similar measures.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Under the Telecommuting Act of 2018, the employer is responsible for taking appropriate measures to ensure the protection of data used and processed by the employee. The employer is also required to inform employees of all relevant laws and company rules concerning data protection. The use of VPNs and the issuance of internal memoranda setting out guidelines on how to work remotely in a secure manner are common practices.

Russel L. Rodriguez | SyCip Salazar Hernandez & Gatmaitan

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POLAND

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

New *ad hoc* legislation so-called “Anti-Crisis Shield” will be enacted on April 1, 2020. The draft bill provides employers with several types of state aid in order to limit collective redundancies caused by COVID-19. The draft bill provides employers/companies with a state aid consisting of co-financing of employees’ remuneration. **The state aid is granted upon the condition to maintain the employment of the employees covered by the state aid. Otherwise, the state aid should be refunded.**

According to the draft bill the employer who suffers from the significant decline in turnover will be entitled to:

- reduce the employee’s salary by 50% due to the economic downtime, or
- reduce the employee’s working time and salary by 20% upon an agreement with the trade unions or employee’s representatives.

In both scenarios the employer may receive the state aid. Unfortunately, the state aid is very limited - up to 50% of the minimum salary (approx. 300 EUR) or up to 40% of the average salary (approx. 480 EUR) per month per employee, depending on the type of support. The total period of support is also limited to 3 months.

Additionally, in case of significant turnover decline, the employer may conclude an agreement with trade unions or employee representatives for:

- introduction of the equivalent working time system - daily working time can be extended but not exceeding 12 hours in a reference period not exceeding 12 months.
- application of less favourable employment conditions than as set forth under contracts of employment.
- reduction of the uninterrupted rest period but to not less than 8 hours a day (32 hours respectively).

Can employers require employees to attend work? Can they be disciplined or penalized if they don’t report to work?

[Refusal to come to work] In general, the employee’s refusal to come to work without any specific reason may justify the employment termination. However, if the employee refuses to come to work due to the reasons related to COVID-19 (e.g. the absence of preventive measures in the worksite) the employment termination may be unjustified. According to the latest government’s recommendations the employer should (i) consider the employee’s request to work remotely; (ii) not penalize the employees who do not report to work or decide to stay under self-quarantine due to the justified fear of being infected. If the remote work is not possible, the employer may grant such employee with vacation or unpaid leave (if the employee’s request has been submitted).

[Refusal to come to work due to the COVID-19 symptoms] According to the governmental recommendations the employee who reports the COVID-19 symptoms should be allowed to stay home, even if the sickness certificate cannot be issued on time due to the healthcare system overload. Please note, that according to the labor law provisions the sickness certificate should be submitted within 7 days. If the sickness certificate cannot be issued on time, the employer may grant employee vacation or unpaid leave.

[Childcare] In the event of nurseries, kindergartens and schools closure parents of children up to 8 years old are entitled to the total of 74 calendar days of release from work, during which they should receive a childcare allowance instead of the remuneration. Employees who are parents of children of more than 8 years of age are, in principle, not entitled to release from work in case of schools’ closure. Such employees should report to work regardless of the recent closures introduced by the Polish government.

[At-risk category] It is permissible to provide additional preventive measures towards some group of employees. However, the employees should be differentiated only on the type of work performed (e.g. drivers are equipped with face masks), otherwise there is a risk of discrimination (e.g. temperature checks only for Ukrainian or Italian employees).

What must employers do when they know or suspect an employee has the virus?

[COVID-19 suspicion] According to the government’s latest recommendation the employer is entitled to refuse to admit an employee to the workplace in case of any signs of COVID-19 symptoms (i.e. respiratory tract infection, coughing, shortness of breath and fever).

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Such employee should be sent home immediately and instructed to contact with the State Sanitary Inspection. Infected employees should be transported by private car or taxi and equipped with face mask and disposable gloves.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

[Remote work] Yes, according to *ad hoc* regulation the employer is authorized to unilaterally impose on an employee the obligation to work remotely for an indicated period of time. The employee's consent is not required.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

[Ask for medical information] According to Polish labor law the employer is not authorized to (i) collect information about the employee's health without the employee's express consent, (ii) examine the employee's health condition or (iii) refer them to compulsory COVID-19 medical examinations. If case of COVID-19 symptoms the employer should immediately instruct the employee to contact with the State Sanitary Inspection.

[Temperature checks] The recently introduced law regarding COVID-19 prevention did not address the issue of the employer's authorization to verify the employee's body temperature. Thus, body temperature can be measured only upon the employee's consent. However, the employee is expected to grant such consent. The examination should be conducted in a manner that secures the employee's privacy and dignity.

In case the measurement shows that the employee has a fever, the employer should: decline to admit the employee to work and instruct the employee to immediately contact with the State Sanitary Inspection.

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

In case of confirmed COVID-19 infection the employer should inform the employees who have contacted the infected employee about the risk of being infected. Such employees should contact with the State Sanitary Inspection. The employer is not authorized (without the infected employee's consent) to disclose information about the name and surname of the employee concerned.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

The employer is not authorized to limit the employees activities outside work. On March 25, 2020 severe movement restrictions has been introduced in Poland. The restrictions do not apply to movement to perform professional activities or business tasks. However, due to the movement ban the employers are encouraged to allow employees to work remotely.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

No. The recently introduced *ad hoc* law did not address these issues. If the remote work is implemented in a workplace due to COVID-19, the employer is not obliged to introduce the remote work policy.

Please, note that abovementioned information are compliant with recently adopted *ad hoc* regulation concerning COVID-19 prevention, general labor law provisions and its interpretation issued by State Labor Inspectorate and Ministry of Family, Labor and Social Policy as of March 31, 2020.

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PORTUGAL

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

The Portuguese Government has approved several measures to deal with the impacts of the COVID-19 outbreak, including:

- **Job maintenance supports:** by introducing a simplified lay-off procedure which allows employers to unilaterally suspend employment agreements or reduce working periods if they are considered to be in a situation of business crisis (defined by law) as a result of the COVID-19 pandemic. Under these suspension or reduction measures employees' salaries are reduced, as a rule, to 2/3 of their normal salary or to the remuneration corresponding to the reduced working hours with minimum and maximum limits. The Social Security may support 70% of the employees' salaries during the lay-off, although there are different rules in respect of suspension and reduction measures;
- **Postponement of payment of 2/3 of the social charges borne by the employer** (depending on the number of employees, the existence of a reduction of 20% in invoicing and/or the closure of the company determined by a public authority, in some situations) **and exemption from social charges** for employees who trigger the simplified lay-off procedure;
- **Announced credit lines for some sectors of activity;**
- **Several tax measures regarding VAT and corporate income tax;**
- **Welfare protection measures** for employees who have to stay at home to care for their children as a result of the closure of schools and employees;
- **Welfare protection measures and financing supports** for individual contractors (self-employed persons) to deal with loss of income and family care necessities.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Further to the declaration of the state of emergency, the Portuguese Government approved a series of execution measures, pursuant to which teleworking is now mandatory whenever the employee's duties and functions are compatible with remote work.

If teleworking is not possible, and if the company has not been forced to close in light of the state of emergency, employers may require employees to attend work. However, in the current scenario, common sense and reasonable practices must prevail on all sides.

Given the pandemic classification declared by the World Health Organization, we consider that an employee may legitimately refuse to comply with an order given by the employer to attend work in a specific manner (e.g. make deliveries, meet face-to-face with someone, or to undertake a business trip), only if he/she considers that the company is not (i) complying with the recommendations of the health authorities; or (ii) not providing adequate personal protective equipment; or (iii) not facilitating the best conditions for the employee to perform his/her duties in a safe manner. Otherwise, refusal to work could be deemed an unjustified absence to work, implying loss of pay and disciplinary liability.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Pursuant to the General Directorate of Health guidelines, companies must have a specific contingency plan to respond to an epidemic scenario caused by COVID-19, that should, among other items, answer and prepare for a situation where an employee is suspected of having been infected by the COVID-19, foreseeing, inter alia, the immediate isolation of a symptomatic employee, even before a response can be obtained from the health authorities.

Employers can require employees to stay home. If this is considered merely a prevention measure of the employer – i.e. not corroborated or ordered by a health authority – this should be considered a “voluntary quarantine” and it cannot have any impact on the employee's remuneration, which will be borne by the employer.

If, however, the prophylactic isolation is determined by the health authorities, the employee shall be entitled to a sick pay equivalent, paid by the Social Security, corresponding to 100% of his/her reference pay, for a maximum period of 14 days.

COVID-19 / Local Responses to Global Employee Impact

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

Additional medical examinations may be ordered by the employer if the purpose of the examinations is the protection or safety of the employee or of third parties. In these cases, the employee must be provided, in writing, with the grounds for such medical examinations to be conducted. However, unless the employees have a medical indication from the health authorities to perform the aforementioned medical examination, the employer will have to pay for any tests conducted at the private centers that will eventually offer this service.

Moreover, the employer cannot have access to employer's health data. Hence, the examinations should be conducted by an occupational health physician, who shall collect the employees' data and simply notify the employer whether or not the employee is fit to work.

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

According to official information, if there is a confirmed patient with COVID-19, it will usually be the health authorities that will contact the employer in order to identify the employees who may be considered as "close contacts" of the infected employee. However, we advise that the company should coordinate with the health authorities in order to provide all necessary information, maintaining a reasonable level of discretion and confidentiality.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Employers may only issue general guidelines, stressing the importance to abide by the legal framework in force and the recommendations of the health authorities. Non-compliance could lead to disciplinary responsibility where the breach could impact the employment relationship (e.g. danger of contaminating co-workers as a result of said breach). However, as a general rule employers cannot require employees from limiting their personal activities where this is not prohibited by law or against the recommendations of the health authorities.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Employees telecommuting remain covered by the labour injuries insurance policy. For these purposes, the employer should inform the insurance company that the employee is now working remotely. Furthermore, in the absence of an agreement setting out otherwise, the employer shall bear the costs inherent to the use and maintenance of the IT tools (e.g. Internet and mobile phone data packages).

Additional information on COVID-19 issues in this jurisdiction

The Portuguese version of Guidelines no. 006/2020 of the General Directorate of Health are available at:

<https://www.dgs.pt/directrizes-da-dgs/orientacoes-e-circulares-informativas/orientacao-n-0062020-de-26022020-pdf.aspx>

COVID-19 / Local Responses to Global Employee Impact

SINGAPORE

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

To deal with the economic impact of the COVID-19 pandemic, the Singapore Government has introduced a series of support packages under three budgets, the Unity, Resilience and Solidarity Budgets (worth S\$60.1 billion in the aggregate) that include the following measures:

- Jobs Support Scheme: a 25% cash grant on the gross monthly wages of local employees subject to a monthly wage cap of S\$4,600 per employee for 9 months (with higher levels of support for F&B, Transport and Aviation) save for April 2020 where that percentage will be increased to 75% for all local employees.
- Enhancement of the Wage Credit Scheme, which supports enterprises embarking on transformation efforts and encourages them to share productivity gains with workers in the form of wage increases.
- Corporate Income Tax (CIT) Rebate of 25% of tax payable, capped at \$15,000, for Year of Assessment (YA) 2020.
- Year-long enhancements for several tax treatments under the corporate tax system.
- Enhancements to the Enterprise Financing Scheme – SME (Small Medium Enterprise) Working Capital Loan (EFS-WCL), which is available to SMEs across all industries.
- COVID-19 Support Grant, where low and middle income Singaporeans who lose their jobs due to COVID-19 will receive a cash grant of S\$800 per month for 3 months.
- SGUnited Jobs Initiative will see new initiatives targeted at creating about 10,000 jobs over the next year.
- Sector-specific support for directly affected sectors, such as tourism, aviation, retail, food services and point-to-point transportation services.
- Cash Payouts of between S\$600 to S\$1,200 to all Singaporeans aged 21 and above, with additional cash payouts to Singaporean parents with at least 1 Singaporean child and to Singaporeans aged 50 and above.

In addition to the above, employers may be entitled to certain support programmes provided by the Ministry of Manpower (MOM). Under the Leave of Absence (LOA) / Stay-Home Notice (SHN) Support Programme, eligible employers may apply for S\$100 daily per affected worker for the required duration of paid LOA or SHN granted to or imposed on the employee. Eligible employers will also qualify for levy waivers for affected foreign workers for the LOA or SHN period. Affected workers include Singapore Citizens (SC), Permanent Residents (PR) and work pass holders who have been placed on LOA or SHN. Employers who have employees issued with Quarantine Orders may also apply for a Quarantine Order Allowance of S\$100 per day. The MOM will also provide small and medium size enterprises with a 3-month extension of time for levy payments to help with cash-flow management, levy waivers for foreign workers and man-year entitlement refunds for construction firms affected by disruptions arising from COVID-19.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Employers are encouraged to allow telecommuting wherever possible, particularly for vulnerable employees (such as those who are older, pregnant or have underlying medical conditions). For job roles where telecommuting is not feasible, employers should comply with the Government's advisories for safe distancing measures at the workplace, for example, ensuring wider physical spacing (at least 1 metre) between work stations, staggering work hours and lunch times, implementing shift or split team arrangements and deferring non-critical work events. If employees do not report to work without a valid reason, they can be disciplined or even terminated. In the circumstances though, employers are encouraged to be fair and reasonable. With effect from 7 April 2020 until 4 May 2020, the Government has mandated that to stem the spread of COVID-19, all workplaces must be closed with the exception of essential services prescribed by the Government and their related supply chains and service providers. Entities that are able to continue to operate their business (in full or limited capacity) with employees working from home should continue to do so.

COVID-19 / Local Responses to Global Employee Impact**What must employers do when they know or suspect an employee has the virus?**

- a. Can employers require employees to stay home?
- b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?
- c. Are employers able to/required to notify other employees?

Government advisories have been issued, and new Regulations have been enacted, for these situations. If an employee is suspected of having the virus, they should be given a face mask to wear and asked to leave the workplace immediately or isolated if leaving immediately is not possible. They should also be advised to see a doctor immediately and to stay home on sick leave. Employers may also take their employees' temperatures regularly (at least twice daily). Employers should only ask for medical information that is relevant to the COVID-19 situation. If an employee is confirmed to have the virus, employers must cooperate with the Ministry of Health (MOH) to provide assistance and support. MOH will assess who in the workplace needs to be placed on quarantine. Employers will be asked to immediately vacate and cordon off that part of the workplace where the confirmed case worked and to carry out thorough cleaning and disinfecting. The MOM encourages employers to provide timely information to its employees on the latest COVID-19 developments affecting the workplace, and to reassure employees and other relevant persons, e.g. customers, of the measures being taken to ensure their well-being at the workplace.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Employers are advised to encourage their employees to limit their activities outside work. As MOH has issued a travel advisory to the public to defer all travel abroad effective 18 March 2020, employers should remind all employees of such travel advisory and discourage all travel abroad. If an employee still insists on travelling, the employer may require the employee to use his own annual leave entitlements to cover the duration of any mandatory SHN (where applicable), company-imposed LOA duration, or any extended period of travel in the destination country. If the employee does not have sufficient annual leave entitlements, the employer may allow the employee to consume advance leave or put the employee on no-pay leave. Currently, all returning SC and PR will be put on mandatory 14-day SHN and work pass holders will only be allowed to return with MOM approval though chances of obtaining approval are very slim.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Employers must still comply with the Singapore Workplace Safety and Health Act to take reasonably practicable measures to ensure the safety and health of employees telecommuting as their home would be considered a workplace for the purposes of such Act. As it may be difficult or impractical for employers to conduct a physical inspection of employees' homes, an employer may ask them to conduct a self-assessment of their home based on a set list of questions posed by the employer. For personal data, Singapore's Personal Data Protection Act 2012 allows organisations to collect, use and disclose personal data without consent where it is in the national interest or necessary to respond to a health emergency. This may be relevant for contact tracing in the event an employer is required to disclose an employee's personal data to health authorities.

Additional information on COVID-19 issues in this jurisdiction

<https://www.allenandgledhill.com/perspectives/articles/14404/covid-19-resource-centre>

Michele Foo | Allen & Gledhill

Ian Lim | TSMP Law Corporation

COVID-19 / Local Responses to Global Employee Impact

SLOVAKIA

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

The Slovak Government is about to adopt a special law focused on providing financial support to employers. The support shall be provided in the form of state subsidy of 80% of gross wage for mandatorily closed companies and will be limited to EUR 1,100 per employee. The measure will apply to employees with employment agreements for both definite and indefinite periods of time, but an employee must not be within the notice period.

In case of lack of business (decrease in sales by at least 20%) the contribution shall be provided in the capped form depending on percentage of decrease in sales.

These measures have so far only been approved by the Government. Its adoption in the legislative form is expected by 03 April 2020.

If the employees are actually sick or quarantined, they are entitled to sick allowance fully paid by Social Security. Furthermore, the employees who must stay at home to take care of their children due to the closure of schools are provided with some limited allowances paid by Social Security.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Yes, employers may require employees to attend work. Even though the employer may be understanding regarding the possible fear to attend the workplace, an absence for such reasons would be considered unexcused and may lead up to a termination of employment. This does not apply to employees with objective reasons not to attend work, e.g. those taking care of their child or those under official quarantine. Besides that, the general rule is that all employees should be treated equally.

However, the employer shall not consider as a failure to fulfil obligations those cases in which the employee refuses to carry out work or follow an instruction which immediately and seriously threatens the employee's or other persons' life or health. If the employee is in immediate danger to health, he/she may refuse to perform such a workload.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Yes, the employer should instruct the employee to leave the work place and seek medical help and to apply for sick leave.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

There is no legal right of the employer to ask the employee for medical information. However, we assume that in these difficult days requiring such information may be justified and the employees might be asked to share the information on a voluntary basis. The employers are entitled to adopt restrictive measures to protect other employees, i.e. they may take employees/visitors temperatures prior to entering the workplace these days.

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

Yes, employers may notify the other employees. However, the privacy of the person should be preserved and only the directly affected employees should be provided with more details.

COVID-19 / Local Responses to Global Employee Impact

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Employers cannot restrict employees' personal travel but after returning from abroad, employees are obliged to contact their doctor and stay at least for 14 days in quarantine.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

The employer must secure the health and safety in the workplace, i.e. also at the employee's home. This is usually done through an agreement in which the employee undertakes to preserve the work health and safety requirements even when working from home. In case of an injury, the employees are covered by social security if the injury occurred in relation to the work tasks.

When it goes to data protection, employee is obliged to maintain confidentiality of all facts of which he/she has learned in connection with the work at home and is obliged to take all measures to prevent the leakage of confidential information.

Additional information on COVID-19 issues in this jurisdiction

<https://www.havelpartners.cz/en/closure-of-stores-and-other-operations-what-are-the-impacts-on-employers/>

<https://www.havelpartners.cz/en/coronavirus-from-the-employers-perspective/>

Jan Koval, Petra Sochorová | Havel & Partners

COVID-19 / Local Responses to Global Employee Impact

SLOVENIA

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

Slovenian legislator recently adopted Law on intervention measures regarding salaries and compulsory contributions (*Zakon o interventnih ukrepih na področju plač in prispevkov "Intervention Act"*) which envisages state reimbursement of (part of) salary compensation paid to employees unable to work during the COVID-19 crisis. Employers shall be entitled to such reimbursement in case (a) they will not be able to provide work to (some of) their employees due to decrease of business directly related to COVID-19 crisis and will order them to wait for work at home; or (b) the government declares quarantine and (some of) the employer's employees are unable to work from home, whereby:

- In case of (a) employer is entitled to state reimbursement of 40% of the salary compensation paid to employees waiting for work at home, but max. EUR 892.50 gross, for max. 3 consecutive months. Reimbursement available on a one-off basis;
- In case of (b) employers is entitled to state reimbursement of 100 % of the salary compensation paid to workers unable to work from home due to the nature of their work for the duration of the quarantine.

Further incentives for employers (such as full state reimbursement of salary compensations for employees waiting for work at home, and full state coverage of compulsory social security contributions for all employees) proposed by the government in anti-corona law (not yet adopted).

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Yes, employers can require employees to attend work. An employee's fear of being infected does not constitute a justified reason for absence from work. If an employee fails to report for work without a justified reason, the employer is allowed to take disciplinary measures or potentially dismiss the employee for cause (in case of absence longer than 5 days).

If an employee cannot report to work due to the childcare duties or unavoidable external reasons (such as area lockdowns or quarantines, termination of public transport) these are generally regarded as absence due to vis major. For such periods employees are entitled to salary compensation in the amount of 50% of their regular salary. (NB: The proposed anti-corona law stipulates such employees will be entitled to 80% salary compensation, which will be fully reimbursed to the employer by the state.)

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Yes, employers can require employees to stay at home and (i) work remotely; (ii) (if they show symptoms and are not able to work) put them on a sick-leave on the basis of a medical certificate from the doctor and receive social security benefits; or (iii) if neither of the above is possible to pay base wage to the employee without work for this downtime.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

Generally, employer may not perform a general screening of their employees (e.g. by thermometer) or ask them to provide health related documentation. If suspicions of a possible infection arise employers may order an extraordinary medical examination of the employees by the occupational physician.

COVID-19 / Local Responses to Global Employee Impact**What must employers do when they know or suspect an employee has the virus?****c. Are employers able to/required to notify other employees?**

Employers are generally not allowed to disclose health related information about their employees. However, depending on the circumstances the employer may be allowed to disclose the identity of an employee being diagnosed with coronavirus to other employees if it is relevant for protection of their health and safety.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Employers can generally only discourage such activities and / or inform employees about the associated risks. Due to the extraordinary pandemic situation, employers may ask employees to refrain from travelling to certain areas, which have been categorized as high-risk areas by the authorities. The employer can require employees travelling to abroad or to high-risk areas to refrain from coming to work from home or to stay away from the workplace for a quarantine period.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Employers are generally required to make sure that the home office is “fit for purpose” (i.e., it is compliant with health-and-safety law requirements) as the employer continues to be under an obligation to provide a safe workplace. When instructing work from home, the employer must provide to the employees any information re healthy and safety at work applicable to their working post.

Furthermore, if employer assigns work from home, employees must be notified of the organisation of the work process during the period of remote work (e.g. means of employer’s (remote) supervision, worker’s reporting to employer, etc.). Additionally, the employer must provide work tools / means employees will need for their home office (e.g. computers, phones etc.) In case such tools are not provided by the employer, the worker is entitled to a compensation for the use of their own tools and any costs related thereto.

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SOUTH AFRICA

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

A mandatory national 21-day lockdown came into effect in South Africa from midnight on Thursday 26 March 2020 until midnight on Thursday 16 April 2020. Apart from certain categories of business that are permitted to remain open and certain categories of people carrying out essential services who are exempted from the lockdown, every person is required to remain at home (other than to obtain essential goods or services).

Various economic measures have been, and continue to be, put in place by the government, including tax subsidies for small businesses and individuals, access to additional social security benefits (although fairly limited and capped in nature), and a temporary reduction and/or suspension of employer and employee contributions to certain statutory social welfare funds.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Only employees providing essential services, as designated, are currently required or permitted to attend work during the lockdown. Employers have an obligation to make necessary transport arrangements where an essential service employee is otherwise unable to attend to work during the lockdown. Essential service employees during the lockdown, and all employees post the lockdown, who unreasonably refuse to report for work could be subject to disciplinary action. What constitutes a reasonable refusal will be fact specific but a general non-specific fear of coming to work would not be regarded as reasonable (subject to the employer having taken all reasonably practicable steps to ensure the health and safety of employees at work.) Should an employee be willing to allow an employee to stay at home, the employee can be required to take annual leave or unpaid leave. Employees are entitled to 3 days' family responsibility leave per annum when their child is sick. This is not applicable when a close relative other than a child is ill, e.g. parents or siblings, nor when the employee needs to care for a child who is not sick, but who, as a result of school closures, must be looked after. In such circumstances, the employee may need to take annual leave or unpaid leave.

What must employers do when they know or suspect an employee has the virus?

- a. Can employers require employees to stay home?
- b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?
- c. Are employers able to/required to notify other employees?

In the event that an employee displays any symptoms or has tested positive, the employee may be required by the employer to stay home. Employers and employees have a statutory obligation to ensure health and safety in the workplace. Accordingly, employers must take precautionary measures in circumstances where there is a reasonable apprehension that an employee has COVID-19. If the employee is in fact ill (as opposed to self-quarantining) then their absence can be treated as paid sick leave. Employees are entitled to 30 days' paid sick leave in every 3 year sick leave cycle. Where this leave entitlement is exhausted, the employee may be required to take annual leave or unpaid leave.

Employers are required to provide and maintain, as far as reasonably practicable, a working environment that is safe and without risks to the health of its employees. Employers are accordingly permitted to impose rules in order to ensure a safe working environment. Employers may exclude persons if they do not abide by those rules, such as requiring all employees / entrants to submit to temperature testing, travel history checks etc. Temperature testing is permitted with the individual's informed consent. If the individual objects to the test, the employer may legitimately rely on other relevant information (e.g. observable symptoms, travel history etc.) to prohibit entry.

As part of its general health and safety obligations, an employer would arguably be obligated to notify other employees, amongst others, who may reasonably have been exposed to an employee who has or is reasonably suspected of having COVID-19.

COVID-19 / Local Responses to Global Employee Impact**Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?**

Generally speaking, an employer cannot stop an employee from undertaking personal travel and require her/him to cancel her/his personal travel plans. However, during the national lockdown, all persons are in any event prohibited from leaving their homes (except in very limited circumstances). Post the lockdown the employer would however reasonably be permitted to refuse access to its premises someone whom it reasonably suspects of having COVID-19 or being at being at high risk of having been exposed to the virus (e.g. due to their travel history).

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

An employer's legal obligations in terms of health and safety will extend to employees' homes where the employee is working remotely. Employers may accordingly need to assess the suitability of home working environments and ensure that their liability insurance extends coverage (and ideally should obtain a suitable indemnity from employees working remotely). Security and encryption of workplace devices such as cell phones and laptops will also be necessary to the extent that such devices contain confidential information.

Additional information on COVID-19 issues in this jurisdiction

<https://www.bowmanslaw.com/coronavirus-pandemic/>

Helen Wilsenach, Amy Thompson | **Bowmans**

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SOUTH KOREA

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

Korean law allows companies to unilaterally implement a temporary shut down or temporary reduction in work hours. In such case, Korean law requires the company to pay employees 70% of their “average wage” for the period that the employees are not working.

Provided that companies can supply the necessary documentation to prove their business difficulties, the Korean government will provide a subsidy to partially reimburse companies for the 70% average wage payment that the company provides for the non-working period.

In response to COVID-19, the Korean government has enhanced its level of support for certain business industries that have employees below certain thresholds that makes it easier for such companies to receive such subsidies.

If an employee has been hospitalized for a confirmed case of COVID-19, he/she is not legally entitled to receive paid leave. Nonetheless, the employer may decide to grant paid leave to the employee concerned. If the employer chooses to do so, it may receive a “Support Subsidy for Paid Leave” from the government (up to KRW 130,000 per day). We also note that if the daily wage of the employee concerned exceeds KRW 130,000, the employer is required to pay the difference.

Alternatively, individuals who are hospitalized or quarantined due to COVID-19 may receive “Living Support Expenses” from the government during the period in which they are hospitalized or quarantined. If an employee has applied for and receives Living Support Expenses from the government, the employer cannot receive the Support Subsidy for Paid Leave from the government.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

If the employment agreement states that the place of work shall be the company's office, then employers have a right to require the employee to work there. If an employee does not show up for work, then that would be a basis for the employer to impose disciplinary action.

On the other hand, the employer has a duty to provide a safe work environment for its employees. If an employer disciplines an employee for not coming to work and the employee files a challenge to the labor authorities that COVID-19 made the work environment dangerous, the employee would have a strong argument to have the disciplinary action overturned.

Practically speaking, if an employee wishes to self-isolate or needs to care for children while schools are closed, then the employer and employee should mutually agree on an arrangement to allow the employee to work from home.

What must employers do when they know or suspect an employee has the virus?

According to guidelines published by the Ministry of Employment and Labor, when an employer knows or suspects an employee has the virus, the employer should order the employee to immediately wear a mask and the employer should call the public health center or the Korea Center for Disease Control. Also, any other employee that has come into contact with that infected employee should not move until an investigation has been conducted by the public health center. The other employees should wait for the public health center personnel at an appropriate quarantine space within the business site, wearing protective gear (i.e., masks and gloves).

The employer should then cooperate with the public health center in any subsequent investigation and with further measures implemented by the public health center, such as disinfection of the areas where the infected employee was moving within the office space.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Yes. Also, if the employer has an employee that is confirmed to be infected or suspected and the employer decides to shut down the company's office in order to disinfect the premises and prevent further spread, then the company may do this and is legally not obligated to pay employees' salaries during this time (i.e., the company can implement a temporary shut down and be exempted from

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the obligation to pay 70% of average wage). However, it is nevertheless recommended that the employer voluntarily pay full salaries or at least 70% of average wage in order to allow its employees to maintain their livelihood.

What must employers do when they know or suspect an employee has the virus?

- b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

An employer can ask for medical information and may request employees to submit to a temperature check. However, the employee has a right to refuse both. If an employee refuses to submit to a temperature check, the employer may refuse to allow the employee to enter the employer's premises.

What must employers do when they know or suspect an employee has the virus?

- c. Are employers able to/required to notify other employees?

If a case of COVID-19 is confirmed at the employer's office, then this fact must be notified to other employees. However, due to Korean privacy laws, the name of the infected individual should not be disclosed. However, if there is a need to disclose more information in order to prevent infection but disclosing more information would identify the individual in question, the safest approach (from a privacy law perspective) would be to obtain a consent from the individual in question.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

In principle, an employer cannot limit an employee's activities outside of work, unless such activities would inhibit the employees' ability to perform his work.

An employer can certainly advise employees to comply with certain guidelines.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Korean employees must subscribe to four "social insurances," including occupational injury insurance. This insurance will cover employees if they experience injuries or illness arising out of and in the course of working at home.

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SPAIN

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

Several measures have been implemented, the most relevant of which are the following.

Regarding protection of employees, Royal Decree-Law 9/2010 prohibits terminations or dismissals based on force majeure and economic, technical, organizational, and production grounds arising from COVID-19. This means that if there is no sufficient cause for termination unrelated to COVID-19, the termination would be declared contrary to law.

In the same regulation, a protection for temporary employees is set forth, so the length of these contracts and their reference periods will be interrupted during temporary redundancy plans so the contract can be fully completed when the temporary redundancy is over.

Also regarding employees, Royal Decree-Law 8/2020 facilitates the ability of employees affected by temporary redundancy plans to obtain unemployment benefits, as those employees do not have to meet the requirements for previous contributions, provided that their employment started before March 18, 2020, and payment of this benefit will not count for purposes of later payment of the unemployment benefit.

Regarding employers, Royal Decree Law 8/2020 has facilitated the procedures for temporary redundancies, both for force majeure and business-related reasons, shortening and simplifying them in order to bolster the adoption of these temporary measures instead of terminations. Also, companies can be exempted, if they request it, from paying social security contributions while the temporary redundancy plan due to force majeure is in force. These measures are subject, however, to companies' commitment to maintain jobs for six months from the date the activity is resumed

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

From 30 March to 9 April 2020, all the employees in Spain other than those working in any essential activity or falling within other exceptions, as defined by the Government are on mandatory, paid, recoverable leave.

In addition, a new piece of legislation was passed on 27 March 2020 allowing employees who take care of their spouse or partner or relatives by blood to the second degree to adapt or reduce their working time if there are exceptional circumstances related to the prevention from mass infection by COVID-19.

The exceptional circumstances include (i) the need for the eligible worker to personally take care of any of the persons mentioned above who are in the need of personal and direct attention due to their age, sickness or disability and in connection with COVID-19; (ii) closure of schools or other centers taking care of any of the above mentioned persons; or (iii) when the person who takes care of the spouse or relative by blood to the second degree is no longer able to do so for any reason connected to COVID-19.

The employees who meet the above mentioned circumstances are entitled to adapt or reduce their working time.

The right to adapt the working time may refer to the distribution of working time or any other condition of employment that may help the employee to take care of the above mentioned persons, including change of shift or working pattern, workplace, duties, homeworking, etc., provided that any such change is reasonable and balanced.

The working time reduction may even reach 100% of the working time. The employee must inform the employer 24 hours in advance.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

In case of an employee who may be susceptible of suffering from COVID-19 (due to exposure to contagion: trip to risk zone, contact with other patients, etc.), but without symptomatology or isolation order from the authority:

- The employee must be referred to the Health & Safety service to proceed with a medical exam.
- Any mandatory medical examination, such as the one referred to, must be consulted with the workers' representatives.

COVID-19 / Local Responses to Global Employee Impact

- The employee's refusal to undergo medical examination may constitute a labor offense and, in any case, on a precautionary basis should be prevented from rendering services in the workplace, for example through agreed teleworking.

If there is confirmation of infection of an employee, the affected employee will be placed on temporary sick leave and will not be able to go to work.

What must employers do when they know or suspect an employee has the virus?

- Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

If an employee is suspected of contagion, the employer may refer the employee to the health and safety services for a medical exam. Medical examinations, including temperature checks, are in general voluntary for workers. Such voluntariness may be excepted when the examination is essential to verify whether the worker's health status may constitute a danger to himself, to other employees, or for other people related to the company. The case of an employee suspected of having contracted the virus falls within this exception, although the workers' representatives must be in any case consulted.

Health data is highly sensitive data according to the data protection regulations, but in circumstances such as the pandemic, employees suspect of contagion may be requested to contact the health and safety services in order to activate the preventive protocol in the company. In any case, affected employees must be informed of the data treatment, the data may only be used with the purpose of preventing or controlling the virus' expansion, and it must be kept strictly during the time it is needed for that purpose.

What must employers do when they know or suspect an employee has the virus?

- Are employers able to/required to notify other employees?

The affected individual's health data cannot be leaked, as it highly sensitive persona data. However, if there are cases of contagion in the company, the preventive instructions established by the occupational risk prevention service will have to be complied with, to facilitate the continuity of the production activity and the protection of the employees' health. These measures may consist on adopting a temporary teleworking scheme for the whole workforce.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Employers cannot limit their employees' outside activities, as this belongs to their private life.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Since the beginning of the crisis, the Government has been bolstering telecommuting as a priority over reducing or stopping companies' activity. To this end, companies must establish alternative organization systems that make it possible to maintain their activity, particularly by means of remote working, provided that this is technically and reasonably possible and the effort required to adapt is proportionate. In these cases, in order to facilitate remote working, the obligation of assessing risks according to the Prevention of Occupational Risks Act will be regarded as having been fulfilled, on an exceptional basis, by means of a voluntary self-assessment performed by the employees themselves.

Mario Barros | Uría Menéndez

Juan Bonilla, Rubén Agote | Cuatrecasas

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SWEDEN

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

The Swedish government has enacted several new proposed regulations, which are expected to be approved by the parliament this week. Most importantly, if employers can agree with trade unions/individual employees to reduce work hours by 20, 40 or 60 %, the salaries to employees may be reduced by 4, 6 or 7.5 %, with the government picking up the lion's share of the cost for the reduced work hours up to a monthly salary of 44.000 SEK. The employer's cost will be reduced by 19, 36 or 53 %, depending on the degree of work hours reduction. In order to be eligible for this government support, the employer must demonstrate that it suffers from temporary and serious financial difficulties caused by circumstances outside of its control (e.g. the COVID-19 virus), and which it has already tried to mitigate the effects of.

Another initiative is that the government will pick up the cost of all sick pay during the months of April, May and June. (Ordinarily, the employers are liable for sick pay for the first 14 days of illness, except for the very first day, when no compensation is paid to the employee.)

Also, no medical certificate will be required from employees until after day 21 of illness.

As of 7 April, the proposal is that payment of certain taxes (preliminary payment on salary, employer's social contributions and VAT) may be deferred for a maximum of three months during January-September 2020.

Finally, during the period 1 March – 30 June 2020, the employer's social contributions for employers with fewer than 30 employees will be reduced from approximately 32 % to approximately 10 %.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

In principle, it is still the employer who decides if the employee should come to the work place or not. If an employee does not show up for work, the main rule is that he is in breach of the employment agreement and that consequences, e.g. salary deduction or even termination of employment, may result. This technically applies also in the COVID-19 situation. However, it is also important to keep in mind that the employer remains responsible for all aspects of the work environment, including the psycho-social. In other words, if the work environment is negatively impacted by e.g., employees who are scared to be there, that is a situation that the employer must address.

Currently, the fact that schools/nurseries are closed, is not a valid reason not to come to work. If the children are not sick, the employee will not receive parental benefit from the government. If it is impossible to work from home with the children there, the employee has to try to work out an arrangement with the employer – perhaps there are vacation days outstanding, or the employee could go on unpaid leave.

Please note that at this point, most schools and nurseries are still open in Sweden.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Yes, employees who show symptoms of COVID-19 should be directed to stay away from work and consult medical expertise for further instructions. If the employee claims that he does not have any symptoms, the employer can still require him to stay away from the work place, but will then have to pay salary and benefits as usual.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

Given the employer's responsibility for the work environment as a whole, he can ask for medical information. However, undertaking medical testing will be subject to individual agreements with the employees.

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What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

As part of maintaining a safe work environment, employers should notify other employees if they have been potentially exposed to COVID-19 in the workplace. However, the identity of the affected individual should be kept confidential.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

No.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

It is important to keep in mind that the employer remains responsible for the work environment also when the employee works from home. For obvious reasons, the responsibility is to some extent shared with the employee, who should make the employer aware of any potential issues in the home work environment, e.g., the need for certain equipment, etc.

Charlotte Forssander | Vinge

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SWITZERLAND

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

Yes, the Swiss Confederation has enacted temporary changes with regard to the entitlement and the application process for short-time work compensation. These changes entered into force with retroactive effect as per March 17, 2020 for a duration of six months. In summary, the Swiss Federal Council extended the entitlement to short-time work compensation to several groups of employees previously not entitled, namely to:

- Employees who work on fixed-term contracts, temporary workers and apprentices ;
- Persons who work in the business of their spouse or registered partner ; and
- “Employer-like” employees, such as shareholders of a limited liability company who work as salaried employees in the company.

Moreover, the Swiss Confederation has adopted additional financial measures designed to support the economy, including:

- The setting-up of a CHF 20 billion-fund in order for Small and Medium-sized Enterprises (**SME**) to obtain transitional bank loans. SME should be enabled easily and quickly to access credit financing of up to 10% of their turnover (maximum CHF 20 million) ; and
- Possibility to temporarily defer payment of social contributions (*i.e.*, AHV | IV | EO | ALV) without paying interests. A similar measure allows companies to postpone payment of taxes as well.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Yes, employers may in principle require employees to report to work. Hence, if employees do not observe the employer's instructions to report to work, employers are entitled to take appropriate measures up to and including termination of the employment relationships. There are however certain exceptions to this rule, in particular in the following situations:

- Employers have to enable employees at high risk (*i.e.*, persons aged 65 or older and persons suffering from diseases that weaken the immune system *e.g.*, cancer, etc.) to work from home and to take the required organizational and technical measures to achieve this result. If relevant work activities can only be performed at the ordinary place of work due to the nature of the activity or the absence of feasible measures, employers have to take appropriate organizational and technical measures to ensure compliance with the federal recommendations on hygiene and social distancing. If it is not possible for employees at high risk to carry out their work within this framework, employers shall grant such employees leave and continue to pay their salaries;
- Employees caring for children while schools and nurseries are closed are entitled to a paid leave of up to 3 days. Note however that this question has never been clearly addressed and is still debated.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Yes. If employers suspect employees to have contracted COVID-19, it must take appropriate measures to make sure that the virus does not spread to the workplace and infect other employees. Such measures typically include instructing suspected employees not to come to the workplace at least during the incubation period of the virus (*i.e.*, between 3 to 7 days but up to 14 days) and – provided that the employee is fit to work – allow for home office or remote work solutions.

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What must employers do when they know or suspect an employee has the virus?

- b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

Yes, employers may ask employees to provide for certain medical information provided that employers (i) have a good reason to process such data (e.g., protecting other employees) and (ii) only collect data that are absolutely necessary for the purpose envisaged. Employers may undertake their own test of employees only on a voluntary basis; however, far-reaching mandatory medical screening measures (e.g., mandatory taking of temperature or mandatory screening to COVID-19) are in principle prohibited.

What must employers do when they know or suspect an employee has the virus?

- c. Are employers able to/required to notify other employees?

Although not legally required, where it is essential for the protection of other employees (e.g., those employees at risks [cf. response to question 2 above]), it is most likely proportionate for employers to disclose the identity of the employee who has been infected or exposed to COVID-19 to those at-risk employees.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Employers may only recommend employees to limit some of their activities outside of work (e.g., personal travel in affected areas, etc.). That being said, if employees are prevented from working through his or her own fault as a result of doing non-recommended activities outside of work, the employer may refuse to pay the salary during this period. It is advisable for the employer to warn employees in advance of this possible consequence. In our view, this is in particular the case where the employees voluntarily decide to travel to particularly affected areas against the recommendations issued by the local authorities or by the employers and without a valid reason to do so.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Based on the general obligation to protect the employees' personality, employers must take sufficient measures to protect employees' health. In this context, measures taken by employees must remain proportionate and have to take the employees' personality rights into consideration.

Employers will have to process data pertaining to employees and other members of the extended workforce in accordance with the requirements set forth under the Federal Act on Data Protection (**FADP**). Please note in this context that the FADP is currently undergoing a total revision process in order to introduce in Switzerland similar level of protection as the one guaranteed under the GDPR. As mentioned under question 3 above, employers are only authorized to collect data pertaining to employees if they have a good reason to do so and if they only collect data that are absolutely necessary for the purpose envisaged. Note also that some employees' health data qualify as "sensitive data" thus triggering additional protective measure. Consequently, and to the extent possible, employer should seek to anonymize the health data (i.e., not reveal the identity of the employees to other employees or third parties).

Additional information on COVID-19 issues in this jurisdiction

<https://media.homburger.ch/karmarun/image/upload/homburger/r1NbZF18-Covid-19,%20Overview%20of%20the%20measures%20adopted%20by%20the%20Swiss%20Federal%20Council%20to%20mitigate%20economic%20consequences,%20status%20as%20of%20March%202020,%202020.pdf>

<https://media.homburger.ch/karmarun/image/upload/homburger/Bkp5JVCNI-How%20to%20Deal%20with%20the%20Coronavirus%20at%20the%20Workplace.pdf>

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TAIWAN

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

The Ministry of Economic Affairs (“MOEA”) of Taiwan announced a program, effective on March 16, 2020, to offer loans and subsidies to local businesses which suffer difficulty in continuing their businesses due to COVID-19, which includes loans for payments of employee monthly wages up to a maximum of 6 months.

Can employers require employees to attend work? Can they be disciplined or penalized if they don’t report to work?

As the containment of the COVID-19 epidemic in Taiwan is working effectively, there is no local lockdown plan so far and most of the schools are still open. Hence, employees cannot refuse to attend work simply because of fear of, for example, the possibility of infection during their commute to and from work. However, if employees are required by the health authority to undergo self-quarantine/self-isolation due to recent travel overseas or being in close contact with confirmed or suspected cases, or they have to take care of their young children due to school closure, the employer may have to offer the employees paid leave.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Yes, under the Infectious Disease Control Act, the Labor Standards Act and the Act for Safety and Sanitation at the Workplace, an employer is obligated to keep the workplace free from any infectious disease so as to protect the health of employees. The employer is therefore OBLIGATED to isolate an employee who shows symptoms or is tests positive for COVID-19.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees’ temperatures)?

Likewise, given the employer’s obligation to keep the workplace free from infectious disease, the employer may take protective measures such as asking for medical/travel information, screening temperature and asking employees to wear surgical masks around the workplace.

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

The employer should notify the employees who are exposed to risk of COVID-19 and ask them to undergo self-quarantine/self-isolation. However, the identity of the employee who tests positive for COVID-19 should be kept confidential.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Employers can advise against personal travel to those countries against which the Taiwan authority has issued a travel warning, and they can ask the employees to report/disclose their personal overseas travel in advance. As all travelers coming into Taiwan will have to undergo 14 days of self-quarantine/self-isolation, the employers may refuse to offer paid leave for the self-quarantine/self-isolation duration. For employees who do not comply with the prior reporting/disclosure requirement of their personal overseas travel in advance or who hide their travel history, the employers may take disciplinary action against such breach.

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With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

There is no specific requirement under the local law in this regard. However, the labor authority takes the stance that employers cannot make any adverse changes to the compensation and benefit schemes (including labor insurance, national health insurance and pension) of those employees who are required to work from home. Likewise, employers cannot ask employees to take paid leaves during the work-from-home period.

Jill Niu, Gloria Chu | Lee and Li

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TURKEY

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

The Turkish Government introduced certain measures to help employers and employees manage the pandemic situation. The main governmental support/measure during the current situation is the Short Working System regulated under Turkish Labour Code.

Short Working System is a governmental support given to the employers for three months period, in the event that (i) the weekly working hours are decreased temporarily by at least one-thirds or (ii) complete or partial closure of the work place (without the need of continuity) for at least four weeks due to general economical, sectoral, regional crisis or compelling circumstances (i.e corona virus).

The main supports granted by the Turkish government under the Short Working System can be listed as follows:

- Payment of Short Working Allowance to the Employees,
- Payment of General Health Insurance premiums.

The short working allowance is 60% of the daily average gross salary calculated based on the last 12 months salary subject to premium. The allowance amount shall not be higher than the 150% of the monthly minimum gross salary.

The Employee has to be employed by the Employer more than 60 days (decreased from 120 days due to emergency situation) and paid his/her premium for 450 days (decreased from 600 days due to emergency situation).

As per Turkish Labour legislation:

- No consent of the employee is required for the assignment of work from home/remote work.
- Government has officially announced “corona virus” as a “compelling circumstance”. Accordingly, both the employers and employees can benefit from the rights regulated under Turkish Labour Code in case of compelling circumstances.
- In addition the parties may derogate from the statutory rules of the Labour Code by agreement, this may typically include:
 - agreement on taking unpaid leave
 - agreement on shortening working time/reducing salary.
- No consent of the employee is required if the Employers wishes the employee to use his/her paid leaves.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Yes, employers can require employees to attend to work. Pursuant to Occupational Health and Safety Law No. 6331, the Employer has to take any measures to ensure the safety and health of the employees.

In the event of serious, imminent and unavoidable danger, the Employer has to:

- take action and give instructions to enable employees to stop work and/or immediately to leave the work place and proceed to a place of safety.
- for as long as the situation remains unchanged and unless there is a strict necessity; not ask employees, except for those who are adequately equipped and specially assigned to do so, to resume work.

An employee's fear of being infected does not constitute a justified reason for absence from work. If an employee fails to report for work without a justified reason, the employer is allowed to take disciplinary measures or dismiss the employee for cause.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Yes, employers can require employees to stay at home and i) perform work from home office, or ii) (if they show symptoms and are not able to work) ask for a medical certificate from the doctor. The Employer has to pay full wage of the employee during this time. If

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the sickness lasts more than the periods regulated under Labour Code (min. 6 weeks), the Employer may terminate the agreement unilaterally.

What must employers do when they know or suspect an employee has the virus?

- b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

According to the guidelines of the Turkish Data Protection Authority, employers may not perform a general screening of their employees (eg. by thermometer) or ask them to provide health related documentation. These measures are considered as disproportionate. If suspicions of a possible inspection arise employers may request a detailed medical examination of the employee.

What must employers do when they know or suspect an employee has the virus?

- c. Are employers able to/required to notify other employees?

Employers are generally not allowed to disclose health related information about their employees. However, depending on the circumstances the employer may be allowed to disclose the identity of an employee being diagnosed with coronavirus to other colleagues if it is relevant to protect the health of those other employees provided that the main principles of Turkish Data Protection Law are not breached.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

In principle: No. However, within the scope of the measures to be taken under Occupational Health and Safety Law, the Employer may give advisory notices to its employees to refrain from travelling to certain areas, which have been categorized as high-risk areas by the authorities.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Employers are generally required to make sure that the home office is "fit for purpose" (i.e., it is compliant with health-and-safety law requirements) as the employer continues to be under an obligation to provide a safe workplace and safe working environment.

During the time of home office working, the Employer has to comply with all legislation including but not limited to data protection laws and take all necessary measures under this respect.

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UNITED ARAB EMIRATES

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

The Ministry of Human Resources and Emiratisation (the "MOHRE") published a new Ministerial Resolution No. 279 of 2020 (the "Resolution") effective 26 March 2020, in response to the outbreak of the coronavirus (COVID-19).

The Resolution aims to protect the position of non-UAE national employees by private sector employers (who operate under the remit of the MOHRE and certain free zones who incorporate Ministerial decisions into their legislative framework) during the application of the precautionary COVID-19 measures by the UAE government. For the avoidance of doubt, UAE national employees are separately afforded enhanced employment protection via the UAE legislative framework.

A. Redundancies

The Resolution provides procedural guidance to protect employees in circumstances where the employer identifies a surplus of non-national workers.

Significantly, the Resolution provides that the employer must continue to provide the outgoing employees' housing and all of their entitlements (save for their basic salary) until the earlier of the individual exiting the UAE or obtaining the necessary authorization to work for another establishment (or the repeal of the Resolution upon the precautionary COVID-19 measures being removed). This is a material development and will act as a disincentive for employers when considering whether to reduce headcount.

In such circumstances the employer is required to offer outgoing employees the option of registering their details on the MOHRE's portal for jobseekers known as the 'Virtual Labour Market System' to assist workers in being rehired in the UAE given the suspension of foreign recruitment.

B. Amendments to terms and conditions

The Resolution gives the employer the right to take the following measures provided (steps 3-5 require employee consent):

1. Working from home;
2. Leave with pay (in reality this will be enforced use of annual leave);
3. Unpaid leave;
4. Temporary salary reduction; and
5. Permanent salary reduction

The Resolution makes reference to these steps being taken 'gradually' and it remains to be seen how this will be construed in practice.

In summary, the Resolution places an increased burden on employers who choose to reduce headcount during the current COVID-19 crisis. In the alternative, it sets out procedural guidance and affords some flexibility for employers in terms of other steps that may be taken to alleviate cash flow pressure in the current climate.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Ministerial Resolution No. 281 of 2020 provides that employers must not require more than 30% of employees to conduct work at the entities premises. The following groups of employees should be allowed to work from home on a priority basis: Pregnant women, employees aged 55 years and over, employees with disabilities, employees who have respiratory or chronic diseases and female employees who have children in the ninth grade and below.

The same Ministerial Resolution exempts certain sectors from the above 30% cap. These sectors include the construction and infrastructure industry, catering, communication, energy, health, education, banking, food industry, hospitality, health supplies manufacturing, and cleaning companies.

In the event that an employee cannot do their job from home and chooses not to work in circumstances where they are medically fit to do so, the absence will be unauthorised and unpaid and may give rise to disciplinary action noting that we advise more detailed legal advice should be obtained in such an event.

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What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

In line with Ministerial Resolution No. 281 of 2020, private sector employers are required to report to the authorities any employees who are showing (or suspected to be showing) symptoms of COVID-19. Further, employers can have employees work from home even if their industry is exempted from having to do so (see Q2, above). Practically, we are aware that several employers are implementing work from home policies.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

Yes, employers can undertake their own tests (such as taking employees' temperatures) provided that the data is not collected. If the data will be recorded, employee consent should be obtained.

Ministerial Resolution No. 281 of 2020 also requires that employers provide screening points at the entrances of employee accommodation (if provided by the company, as is the case for many blue collar workers) and at employer's premises. Employee temperatures must be checked twice daily (in the morning, before the employee leaves for work and in the evening, when the employee leaves the workplace or arrives at the employer provided accommodation).

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

The identity of an affected employee should not be disclosed to their colleagues or any other third parties unless there is a clear legal basis for such disclosure. An employer would, however, be justified in informing staff that there has been a case, or suspected case of COVID-19, in the company, in order to require employees who may have been in contact with the affected individual to self-isolate and work from home. An employer should ensure that any internal communications about an employee affected or potentially affected by COVID-19 is limited to the minimum information necessary to ensure the health and safety of their colleagues and is disclosed only to those who strictly need to know it. An employer is also required to disclose information about the affected individual to the public health authorities in order for them to carry out their functions.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

No, employers cannot require employees to limit their activities outside work. However, practically the UAE Government guidance is that everyone should stay at home apart from some limited exceptions, such as travel to and from work, essential groceries shopping, visiting the doctor, etc. Therefore, the effect is that employees' personal travel is restricted. While flights are grounded for the time-being, one national airline carrier is expected to re-start limited flight routes on 6 April 2020.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Ministerial Resolution No. 281 of 2020 provides that employers are obliged to ensure that employees have the technical equipment necessary to carry out remote working.

It is of particular importance to maintain the confidentiality and security of confidential and commercially sensitive data when employees operate under a working from home arrangement and it is of paramount importance employees appreciate that applicable company policies apply notwithstanding that employees are working from home.

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UNITED KINGDOM

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

On 20 March 2020 the UK government introduced the Coronavirus Job Retention Scheme which provides a grant to cover 80% of the wages, up to a cap of £2,500 (gross) a month, plus the associated Employer National Insurance and auto enrolment pension contributions, of employees who are "furloughed" due to COVID-19 and related social distancing measures. The scheme is available to all employees and apprentices as long as they were on a UK employer's PAYE payroll on or before 28 February 2020. An employee must agree to be furloughed (and to any consequent reduction in pay) and collective consultation periods may apply. Furloughed employees can volunteer or complete training as long they do not otherwise work or generate revenue for the employer. The minimum furlough period is 3 weeks but employees can be furloughed more than once, as long as each period is for a minimum of 3 weeks. The scheme will cover the period 1 March 2020 to 31 May 2020 but could be extended. An online service to make a claim is expected to be in place by the end of April 2020.

On 4 April 2020 the UK government confirmed that the scheme also covers office holders (including company directors), salaried members of LLPs, agency workers and "limb b" workers.

A similar scheme is available to compensate self-employed individuals (whose trading profit was less than £50,000 in the 2018/19 tax year, or on average less than £50,000 over the last three years).

Additional government help, including grants or low interest loans under the Business Interruption Loan Scheme, is available.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

On 23 March the government announced that everyone should stay at home for (at least) three weeks unless they need to attend work to undertake duties that "absolutely" cannot be performed remotely. The *Health Protection (Coronavirus, Restrictions) (England) Regulations 2020*, also provide that employees may travel to work only where it is not "reasonably possible" to work from their home.

If it is absolutely necessary for the employee to attend work, the employer can require employees to attend. If the employee is vulnerable due to a protected characteristic (for example at a high risk of developing severe COVID-19 due to a disability, or is pregnant) the employer should consider whether any adjustments could be made. If the employee does not have a protected characteristic the employer has no obligation to pay the employee, but could ask the employee to use their paid holiday for the absence. If the employee holds a vital role (for example in healthcare or distribution) the employer may be able to discipline the employee.

Employees in the UK are entitled to take (a) up to 4 weeks unpaid parental leave per child and (b) unpaid leave to enable them to make arrangements to care for dependents. Given the lack of childcare available during the current period of social distancing many parents are likely to take this leave to care for children whose schools or nurseries are closed.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

If an employer asks its employees not to attend work it should continue to pay them their usual salary unless they agree to be furloughed and take a reduction in pay (see Q1) or they qualify for sick pay. The statutory sick pay scheme has been extended to cover employees from the first day of absence due to their own sickness or that of someone in their family, requiring them to self-isolate.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

An employer cannot require an employee to undergo a medical examination without their consent. In accordance with data protection legislation, any collection of health data should be proportionate and employers should consider whether less invasive measures,

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such as asking employees to take their own temperatures, would be sufficient. This information should be kept for no longer than is necessary and access restricted.

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

The employer's duty to take reasonable care to ensure the health and safety of its workforce extends to notifying employees if they have been exposed to someone with COVID-19 as soon as possible. Employers should advise colleagues that they have been in contact with someone who has been infected without identifying the individual. The Information Commissioner's Office ("ICO") have confirmed this approach and advised employers not to provide any more information than is necessary.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Employers can ask employees not to travel for work but they will only have the ability to restrict an employee's personal travel if they have a contractual right to do so. This would be unusual. An employer could require employees who choose to travel not to attend work for 14 days after returning to the UK in order to comply with its duty to take reasonable care of the health and safety of its workforce. If an employee is unable to work from home during this time they could be asked to take an additional holiday or unpaid leave for this 14 day period. In limited circumstances the employer might be able to refuse or revoke the holiday approval.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

An employer remains responsible for its employee's health and safety if they work remotely. Although an employer is unable to carry out its usual risk assessments at an employee's home, it should conduct a general risk assessment for home working and ensure that employees have been provided with adequate resources, equipment and technology to work from home safely. Employers should also ensure that the adequate IT security measures are in place while employees are working remotely. The National Cyber Security Centre (NCSC) has suggested that employers implement two-factor authentication for employees logging in from home, and to consider encrypting work devices to protect data if the device is lost or stolen.

Additional information on COVID-19 issues in this jurisdiction

[COVID-19 Publications and Webinars](#)

Helena Derbyshire, Clare Shears | Skadden

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UNITED STATES

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

The federal government passed the Families First Coronavirus Response Act (the “FFCRA”) and the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”), both of which provide additional benefits and protections to assist employers and employees affected by COVID-19. The FFCRA, effective April 1, 2020 through December 31, 2020, and applicable to employers with fewer than 500 employees, provides paid family leave and paid sick leave for employees unable to work for certain COVID-19 related reasons, up to certain statutory maximums. The FFCRA also provides a tax credits for these wages that are paid due to the FFCRA’s expanded leave policies.

The CARES Act will provide approximately \$2 trillion in assistance to individuals and businesses affected by COVID-19. Employers that receive loans or guarantees under programs through the CARES Act (other than the forgivable loans targeted at small businesses) are generally required to maintain at least 90% of their employment levels as of March 24, 2020 for six months, adhere to certain limits on executive compensation, and in some cases certify that they will not alter existing union arrangements or outsource jobs for a period of two years following the term of the loan or guarantee. The CARES Act separately provides a refundable payroll tax credit for 50% of employee wages paid by employers that are either forced to fully or partially suspend operations due to a governmental order related to COVID-19, or that experience a significant decline in gross receipts. The CARES Act also expands eligibility for unemployment insurance for workers who are displaced due to COVID-19 in a number of ways.

Various state governments have passed, or are in the process of passing, additional protections for employers and employees in their respective state. Additional federal legislation is expected if the duration of the national emergency extends beyond a short period of time.

Can employers require employees to attend work? Can they be disciplined or penalized if they don’t report to work?

Employers can discipline or terminate employees who do not report to work if they are otherwise not covered by a protected leave (*i.e.* family leave, sick leave, disability). Employers should be mindful of applying such policies consistently across all employees and not treat employees differently. If an employee is subject to certain isolation or quarantine orders or an employee is caring for children whose school or nurse is closed, the employee may have protected leave under the FFCRA (*see* Question 1).

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Yes, employees who show symptoms of COVID-19 or who report a positive or suspected positive test should be directed to stay away from work and seek medical attention.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees’ temperatures)?

If an employee displays or reports symptoms of COVID-19 at work, an employer may ask about the employee’s symptoms and direct the employee to leave work. If an employee calls out sick, an employer may also ask whether the employee is experiencing symptoms of COVID-19.

Under temporary guidance applicable during the pandemic, employers may take employee temperatures, so long as temperatures are checked in a consistent manner from all employees and results are kept confidential. Because individuals may be positive for COVID-19 but have no fever, temperature checks have limited reliability.

Employers may not conduct other medical examinations or ask employees for additional medical information (for instance, to identify employees with underlying health conditions that would make the employee vulnerable to complications from COVID-19), though

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employees should be encouraged to voluntarily disclose these conditions. If an employee voluntarily discloses such a condition, an employer must offer a reasonable accommodation which might include, in some circumstances, remote work.

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

Employers should notify other employees if they have been potentially exposed to COVID-19 in the workplace. The identity of the affected individual should be kept confidential.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Employers can advise against personal travel and can order employees to self-isolate after they take personal trips. Employers can also deny the use of paid time off for personal travel consistent with their policies regarding paid time off. Employees who are employed at-will may be disciplined for refusing to comply with employer directives on outside activities, if this discipline is consistent with the employer's policies.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Employees are covered by workers' compensation if they experience injuries or illness arising out of and in the course of working at home. Employers should check with their workers' compensation carrier for more information. Employers may be required to offer an accommodation to employees with disabilities who are telecommuting. Employers should be cognizant of immigration issues, including how remote work and unpaid leave may impact employees with H-1B visas. Employers should carefully consider the status of each foreign national they employ in light of these unique challenges and consult immigration specialists for assistance.

Additional information on COVID-19 issues in this jurisdiction

[COVID-19 Publications and Webinars](#)

Erica Schohn, David Schwartz | Skadden

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URUGUAY

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

The Government issued a COVID-19 Emergency Status, together with specific labor regulations, that in brief require the following:

- There are a number of people required to self-isolate during 14 days: people with COVID-19; people who have been in contact with others with COVID-19; people who have returned from COVID-19 “red zones” (e.g. China, Italy, Spain, among others). Except in the case of those employees who have traveled to red zones after the Emergency Status was in force, the rest of the employees will be entitled to paid sick leave (paid by the public social security system). Paid sick leave is 70% of the monthly salary of the employee, with a cap of approx. USD 1,000.
- Employees aged 65 or older are entitled not to work, for 30 days, even if they are not in the aforementioned situations, and receiving paid sick leave.
- Up to April 17, monthly paid employees are entitled to receive unemployment insurance, even if they do not work for less than a month or as a consequence of a reduction of the 50% of working hours. As a general rule, those employees were only entitled to unemployment insurance if they do not work at least for a month.
- Employers are encouraged to set telecommuting schemes, if possible.
- Whether there is an agreement between employer and employee, paid leave to be accrued during 2020 can be advanced.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

There is not a regulation about this issue. As a general rule, employees who do not attend to work because of a justified reason, will not receive their salary, but cannot be disciplined.

If the company complies with the mandatory safety requirements, the employee is not required to quarantine, and there is not a specific justification (e.g. child care), then the employee may be disciplined. Obviously, it would be recommendable for the employer to try to arrange an alternative, such as unpaid leave, set telecommuting, etc.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

Individuals developing symptoms of COVID-19 are required to self-isolate. Once the employer has known about this circumstance, it must take all the control measures to reduce the contagion risk. These measures may involve requiring employees to not attend to work during a reasonable period and cleaning the work environment. Employees required to not attend work may be those who have been in contact with the individual with COVID-19.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

As a general rule, employers cannot ask medical information of the employees, and employees are not required to notify to the employer about their diseases.

Nevertheless, in this particular context, we understand that the employer may ask for this information, and also undertake tests.

COVID-19 / Local Responses to Global Employee Impact**What must employers do when they know or suspect an employee has the virus?****c. Are employers able to/required to notify other employees?**

According to the COVID-19 regulations, affected employees should notify their own medical insurance, and if it is not possible, the public health administration.

In this particular circumstance, we understand that employers may require the employees to be notified about COVID-19 contagion. But an employer is not entitled to disclose the name of the employee to other workers, due to data protection regulation.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Employers are not entitled to request that their employees limit their private activities. Additionally, up to now, the government has not issued a general quarantine, but has urged everybody to stay at home.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Regulations state that health and safety obligations remain in place even in case of telecommuting. Costs should be borne by the employers.

Time schedules is another aspect that require special consideration for the employer. That is because failure to control the hours worked by the employee in his or her home may lead to overtime litigation against the employer.

Leonardo Slinger, Santiago Madalena | Guyer & Regules

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VENEZUELA

Has your government enacted new protections or provided additional resources to assist employers and employees for whom work is not available due to local lockdowns and/or lack of business?

The Venezuelan government has ratified the ban on dismissal until December 31, 2020. The government has also announced that all workers, including those of the underground economy, will receive an unemployment subsidy through the “Carnet de la Patria” a direct subsidy transfer program. The amount of the subsidy has not yet been defined. Additional details of the measures enacted by the Government through the State of Alarm declaration can be accessed through the link included below.

Can employers require employees to attend work? Can they be disciplined or penalized if they don't report to work?

Only employees working in essential sectors of the economy can be required to attend work. Essential sectors include food production and distribution, health services, water, telecom and electricity, oil and gasoline production, police among others. If they don't report to work for more than three days without good cause (medical reasons) they may be dismissed for good cause or their pay may be suspended. Those employees that have symptoms associated with COVID-19 must self-isolate at home for 14 consecutive days.

What must employers do when they know or suspect an employee has the virus?

a. Can employers require employees to stay home?

They must, for at least 14 consecutive days.

What must employers do when they know or suspect an employee has the virus?

b. Can employers ask for medical information, or undertake their own tests (such as taking employees' temperatures)?

Yes, they can as long as tests are carried out uniformly to all employees and results are kept confidential.

What must employers do when they know or suspect an employee has the virus?

c. Are employers able to/required to notify other employees?

Yes, under the Occupational Health and Safety Regulations this would be considered a work hazard that must be notified to all employees that may have had contact with the infected person. The identity of the person must not be revealed.

Can employers require employees to limit their activities outside work (e.g. personal travel or working remotely from an overseas location)?

Yes, they can and should. Otherwise, they may be liable under the Occupational Health and Safety Regulations.

With increased telecommuting, are there any special issues employers should consider (e.g. health and safety and data protection/cybersecurity issues)?

Employees are covered by the social security if they experience injuries or illness arising out of and in the course of working at home. Working time limits must be observed by the employer and the employees may be entitled to overtime pay.

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Additional information on COVID-19 issues in this jurisdiction

<https://www.dra.com.ve/wpcontent/uploads/2020/03/Covid-19-VZ-Update-March-26-2020.pdf>

Victorino Márquez | D'Empaire Reyna Abogados