

JUNE 2020

MODERN LAW

**ESLF'S GUIDANCE FOR
EMPLOYERS &
EMPLOYEES TO
COVID-19
CHALLENGES**





ESLF's GUIDANCE FOR EMPLOYERS & EMPLOYEES TO COVID-19 CHALLENGES

Dear Clients and Friends,

The current pandemic situation casts a shadow of uncertainty over employers and employees. We hope that the answers below may bring some clarity and support regarding the challenges that lay ahead.

As initial information, we would like to make clear that the Labour Code remains in absolute force; Therefore, most of the legal solutions will be found at the Labour Code there (we refer to Law No. 2004/14, on the Promulgation of the Labour Code), with the necessary amendments that have occurred during the past years.

Furthermore, the Ministry of Administrative Development, Labour and Social Affairs ("MADLSA") issued relevant Guidance Notes to support Employers and Employees during this uncommon time. Even though the Guidance Notes are not an amendment to the Labour Code, we urge Employers and Employees to abide by the Guidance Notes, when applicable.



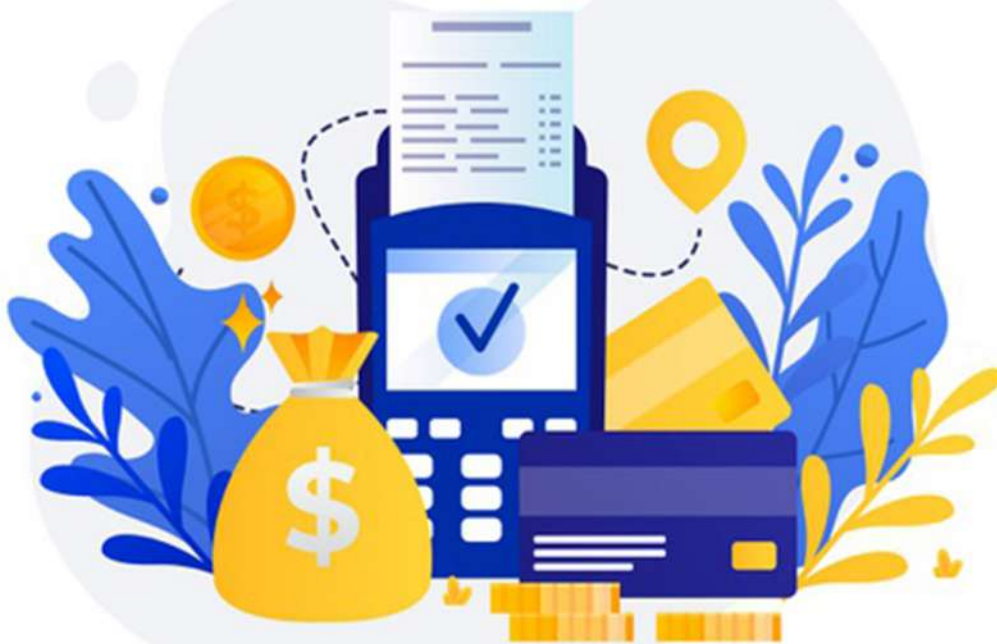
QUESTIONS & ANSWERS

1. Can the Employer impose unpaid leave on Employees?

The Employer does not have the authority to impose unpaid leave. However, Employer and Employee may mutually agree that the Employee will take unpaid leave for a certain period of time. We advise if such an agreement would come to light, it should be written and signed before at least one witness.

2. Can the Employer reduce wages due to a lack of activity?

The reduction of wages is legal only through an individual agreement between the Employer and the Employee. The Employer cannot unilaterally decide for a wage reduction.





3. Are costs due to COVID-19 covered by any insurance?

The answer to this question depends on the specific terms and conditions agreed with the relevant insurance company.

4. Who is eligible (company/employee) for COVID-19 aid funds? How does the government enable the aid funds?

The current aid program is a guarantee scheme of the Qatari Government, named Covid-19 National Response Guarantee Program.

Only companies incorporated under the Ministry of Commerce and Industry are eligible for it. Furthermore, excluded from these aid funds are companies operating in the field of real estate, construction, contracting, supermarkets and pharmacies.

Eligible companies shall have to apply through the bank where they maintain their Wage Protection System (WPS) account.

The National Response Guarantee Program may finance the following expenses:

- ◆ Staff payroll as per the Wage Protection System (WPS) registry for a period of up to 3 months paid on a monthly basis (Actual amounts of monthly Employee salaries not to exceed QAR 10,000 per employee);
- ◆ Rental payments (e.g. factory, business outlet, warehouse and labour accommodation rent) for a period up to 3 months paid on a monthly basis (assuming that the landlord or the government did not waive such rent).



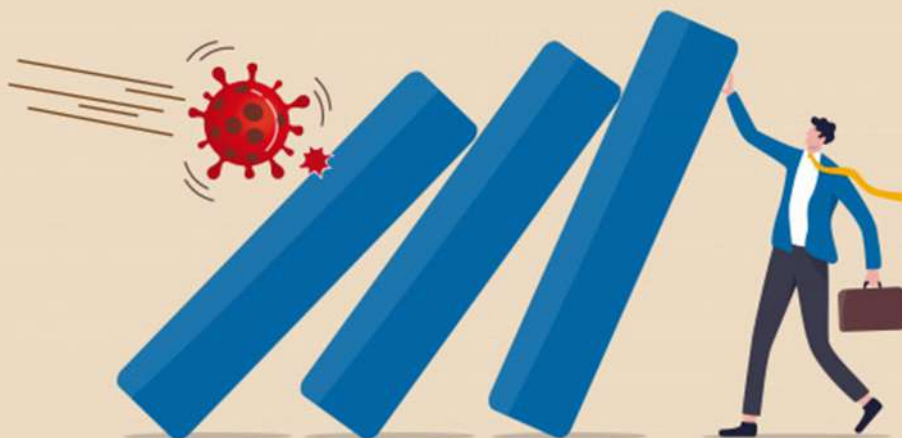
5. Can a company/employee get financial help for rent or other operational expenses (IT, cleaning, electricity)?

As explained in the reply to Question No. 4, only companies are eligible for financial assistance from the government.

Operational expenses are excluded from the current Covid-19 National Response Guarantee Program, but rental payments (up to three months) are included, as mentioned in detail in response to Question No. 4.

Furthermore, companies may benefit from specific financial aid, depending on their sector of activity or determined by other private entities or semi-governmental. For instance:

- ◆ Several sectors such as hospitality, tourism, retail, small and medium industries, commercial complexes and logistical areas are exempted from water and electricity fees for six months.
- ◆ Food, medical goods exempted from customs duties for six months.
- ◆ Several large corporations in Qatar have exempted their tenants from rents and other fees.
- ◆ Qatar Foundation has waived off rental payments for its external SME retail tenants for six months.
- ◆ Katara announced that all investors, owners of restaurants and cafes operating at the Cultural Village shall be exempted from paying rent and other fees such as electricity and water until further notice.





6. Are delay penalties for administration processes cancelled: WHT filing, licenses renewal...

The General Tax Authority provided a two-month extension of the due date for filing tax returns for the year ending 31 December 2019, until the 30th of June 2020.

Regarding delay penalties for license renewal, this will need to be analysed on a case by case basis.





7. When assigning employees to work in locations that are a COVID risk, can employees refuse to attend/work in such locations? What power does the employer have regarding their response? Can the employer terminate for insubordination and under what article?

As per the Labour Law, the Employee performs his work under the management and supervision of the Employer. Assuming that the Employer informed the worker on the risks of the work and provided the Employee with the appropriate protective equipment, the Employee may not refuse to work at a location where there is a Covid-19 risk.

If the worker refuses to work in a certain location, the Employer may initiate disciplinary proceedings.

Regarding the possible termination, article 61 (4) of the Labour Code states:

“The employer may dismiss the worker without warning and without granting him end-of-service gratuity in the following cases:

4 - If the worker violates **more than once** any of his fundamental obligations prescribed in the employment contract or under the Law, despite addressing a written warning to him.” (bold added).

Furthermore, the Employer may terminate the Employment Contract according to the normal Labour Code procedure applicable to the type of contract entered. Nevertheless, the Employer must comply with the Labour Law rules. Thus, the Employer must provide notice to the Employee, paying the end of service benefits and providing the return ticket to the country of origin.



8. Can the Employer dismiss employees that spread fear and rumours to others and if so, under what article?

Normally, this is not enough reason to dismiss the employee without warning and without granting him an end-of-service gratuity. However, the specific actions and its consequences need to be analysed properly to provide an accurate answer.



9. Is it legal to impose annual leave?

According to article 80 of the Labour Law, “The employer shall specify the date of the worker's annual leave according to the work requirements (...)”. Therefore, the Employer may decide the date of the annual leave unilaterally.



10. Is it possible to change the Employment Contract terms and conditions if the incomes of the company have drastically dropped?

The Employer and the Employee should discuss working conditions and benefits, and if they reach an agreement, they can change the terms and conditions accordingly. Nevertheless, changing the employment terms and conditions cannot be an Employer's unilateral measure. Lastly, the Employee is entitled to refuse any adjustment to the employment contract.

11. Once the Airport opens, and the Employer wants to repatriate employees, can he the Employer send the Employees to their home country major airport or is he obligated to send the Employees to the airport nearest to their home town? (in case the second one is closed but main airports are open).

As per the Labour Law, the Employer must return the Employee to the country where he was recruited, or any other place agreed between them. If a certain airport is closed, the Employer may return the Employee to another airport in the same country (preferably the closest one from the initial airport agreed by the Employer and the Employee).



12. Once airports re-open, can we stop employees from travelling on leave?

No. The Employer cannot stop the Employees from travelling on leave. Presently 95% of the Employees do not need an Exit Permit, so the Employer does not have a way of preventing the Employee from travelling.



13. What are the Employers wage payment obligations towards employees if the employer decides to close its operations temporarily?

If the Employer closes its operations temporarily, there are three different possibilities concerning Employees and their wages:

- ◆ The Employer continues paying the normal wage as per the Employment Contract.
- ◆ Employer and Employee mutually agree that the Employee will take unpaid leave for a certain period.
- ◆ Neither of the above possibilities is feasible, and then the Employer may terminate the Employment Contract according to the terms set in the Labour Law. This means providing notice to the Employee, paying the end of service benefits and providing the return ticket to the country of origin.



14. If an employee self-quarantines, are they required to use their sick leave? Can the Employer complete the relevant form on their behalf given their inability to complete it themselves?

The isolation or quarantine period determined by the Ministry of Public Health, shall not be taken from the sick leave.

If the employee decides to enter in self-isolation due to the fear of a potential infection the Employer must agree with such measure. In the cases where the Employee can work from home, the Employer should accept it without taken any days from the sick leave. In the situations where the Employee cannot perform his work from home, then he should present himself at work and any isolation measure must be agreed with the Employer. However, the agreed self-isolation shall not be deducted from the sick leave.

Nevertheless, we remind that the Employee must enter in self-isolation in the following situations:

- ◆ when the Employee shows any symptoms of COVID-19, such as coughing, fever, or difficulty breathing;
- ◆ the Employee has had contact with anyone who has tested positive with COVID-19, even if at the time of contact he or she was not showing any symptoms of the disease;
- ◆ the Employee has returned recently from any country that has a wide spread of the disease.

The Employee must call to Covid-19 hotline 16000 if any of the above situations occur.



15. What are the Employer legal obligations, if an employee in the workplace tests positive for corona virus and subsequently dies? Who determines if the employer was grossly negligent and what are the risks?

As per the Labour Ministry's guidance note, if an Employee shows symptoms such as coughing, fever, or difficulty breathing he should stay away from others and immediately contact Qatar's COVID-19 hotline 16000. In case of an emergency, an ambulance should be called.

After confirming the positive test for Covid-19, all individuals who were in direct contact with the infected employee should put themselves in self-isolation. Furthermore, the Employer must inform the authorities if there is even the slightest chance they are not aware that the Employee had a positive test. This obligation is a result arising from Law No 17/1990, amended by Law No. 9/2020 and one breaching this obligation commits a crime punishable by a maximum of 3 years imprisonment and a fine not exceeding (QAR 200,000) two hundred thousand Qatari Riyals or by one of these sanctions.

If the Employee subsequently dies, as per the Labour Law the Employer should bear the costs of processing and transferring the body of the deceased worker to his home country or his place of residence, if required by the latter's family. Otherwise, the Labour Department shall replace the Employer in doing so and then shall recover the expenses paid in this regard by administrative means.

In regards to the assessment of gross negligence and Employer's responsibility, normally this will be assessed in the same way as a work injury which resulted in death. Therefore, in the first instance, the facts shall be assessed by the Police and secondly by the Courts.



16. For employees who were tested Covid positive, if after the period at the quarantine center is completed and further the employee is asked by MOPH to stay at home on quarantine can those days in home quarantine be considered as sick leave?

No. If the Employee was asked by the MOPH to stay at home, he must do so, therefore those days cannot be considered as sick leave.

17. If an employee has been asked to stay self-isolated by the ministry and knowingly violates the regulation, can the Company discipline the employee under gross misconduct?

First, the Employee's behaviour is considered a crime, pursuant to Law No. 17/1990, amended by Law No. 9/2020. Article 6 (bis) states the following:

"Any person quarantined or subjected to health control by the competent health authority must remain in the place of quarantine designated by that authority and abide by the quarantine and control procedures."

Whoever commits this crime is punishable by a maximum of 3 years imprisonment and a fine not exceeding (QAR 200,000) two hundred thousand Qatari Riyals or by one of these sanctions.

Regarding the possibility of the Employer starting disciplinary proceedings, article 62, no. 2 of the Labour Law determine "No sanction shall be imposed on the worker except for a violation directly related to work, whether occurring during the work, at the workplace or outside the workplace." Considering the Employee's behaviour, it seems that the same is not work-related; therefore, the Employer is not allowed to apply any disciplinary sanction.



18. If an employee is asked to stay self-isolated by the ministry but was not tested positive, will the absence be considered as sick leave?

No. The absence determined by self-isolation or quarantine determined by the MOPH shall not be considered as sick leave, even if the Employee does not test positive.





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