



COVID-19 IN THE WORKPLACE: THE MALAYSIAN POSITION

The recent outbreak of the novel coronavirus, COVID-19, has put much of the world at a standstill, with new cases reported by the day and the death toll rising rapidly. Unsurprisingly, the support services industry, especially the travel, tourism, and hospitality sectors, are a few of the industries which are severely impacted by the COVID-19 outbreak.

Reports of airlines having to cancel flights due to lack of passengers and loss of profit by hoteliers and service-providers made much of the news for the first quarter of 2020. Very recently, news of the drastic plunge of oil price alongside the crash of the stock market, which was triggered by the global community's declining demand for oil had also made headlines.

As at February 2020, it has been reported by the Labour Department that a number of 634 employees have faced employment issues due to the COVID-19 outbreak, with 64 employees having been permanently retrenched, 111 employees facing temporary layoff and 459 employees having had their salaries reduced.

Azmi & Associates has also received numerous queries regarding the existing and possible effects of COVID-19 on workplace environments in Malaysia. Via this article, we aim to highlight several pertinent issues regarding this matter and also to answer the queries commonly asked by both employers and employees.

1. What are the measures that should be taken by an employer should an employee exhibit COVID-19 symptoms?

The employer must immediately direct his employee to be tested by a certified medical practitioner.

Should the employee be tested positive and accordingly placed under quarantine by a certified medical practitioner pursuant to Section 15(1) of the Prevention and Control of Infectious Diseases Act 1988 (“**the PCIDA 1988**”), the employer must take all necessary measures to ensure that the workplace remains a safe and healthy workplace for all employees pursuant to Section 15 of the Occupational Safety and Health Act 1994 (“**the OSHA 1994**”), including and not limited to conducting health

surveillance on all employees, directing employees to seek urgent treatment and cleaning and sanitizing the workplace area.

2. What rights does an employee have if he is required to be put under quarantine?

Should an employee be placed under quarantine by a certified medical practitioner, the employee is entitled to receive full payment of his salary. This is in line with the *Guidelines for Handling Disease-Related Issues Including Covid-19 at Work Places* (“**the Guidelines**”) issued by the Labour Department of the Ministry of Human Resources, Malaysia.

Therefore, it is prohibited for the employer to consider the employee’s quarantine period as unpaid leave, as the employee is still entitled to receive his salary in full. The employer must also not deduct the number of days of quarantine from the employee’s annual leave.

He must also be entitled to any and all benefits such as paid sick leave and hospitalization benefits, regardless of if the employee is quarantined at home or in the hospital.

3. Can an employer disallow an employee from coming to work?

As per the Guidelines, if the employee had not been quarantined by a certified medical practitioner under Section 15(1) of the PCIDA 1988, an employer does not have the authority to restrict him from attending work.

However, an employer may instruct an employee to not attend work by providing him with paid sick leave.

Employers are also encouraged to implement flexible work policies, such as the ‘work-from-home’ policy in order to ensure that the working environment remains conducive and continuously in line with the requirements under Section 15 of the OSHA 1994.

4. How does an employer handle travels to high-risk countries?

All employers and employees are advised to postpone any work-related and personal travels until the threat of Covid-19 has decreased significantly. However, as of yet, there are no directives issued by the Ministry of Human Resources, the Ministry of Health and/or other relevant authorities which impose any restrictions on individuals travelling overseas.

However, should there be circumstances in which employees are required to travel overseas, the employer must take all necessary measures to limit the risk carried by such travels such as requiring the employee to undergo an immediate medical examination at the expense of the employer and placing the employee in self-quarantine for a period of 14-days immediately after returning.

Prepared by:

Labour & Employment and Litigation & Arbitration Practice Group

LABOUR & EMPLOYMENT AND LITIGATION & ARBITRATION PRACTICE GROUP



Melinda Marie D'Angelus
Partner

DL: 603 2118 5021

E: melinda.Dangelus@azmilaw.com



Hanani Hayati Mohd Adhan
Associate

DL: 603 2118 5064

E: hanani@azmilaw.com



Khairunnajihah Aqila Mohd Sofian
Associate

DL: 603 2118 5089

E: najihah.aqila@azmilaw.com



Fadzlin Roslee
Associate

DL: 603 2118 5048

E: fadzlin@azmilaw.com

If you have further inquiries relating to the above, or any other inquiries relating to employment and labour law, please contact Azmi & Associates' Labour & Employment and Litigation & Arbitration Practice Group and we will be happy to assist you with your questions.

Corporate Communication

Azmi & Associates

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