

Employment related questions regarding the Coronavirus

Which employment related measures can or have to be applied on the employer and employee side?

- Employer's obligations of protection: Within the scope of his duty of care, the employer is obliged to prevent an infection of the employees best possible by taking proactive protective measures. This duty can be fulfilled, for example, by providing disinfectants, hygiene recommendations or advice and information on how to behave during business trips.
- Protective masks: Such only have to be provided by the employer in special cases, such as for work in hospitals, at airports, for travelling to risk areas or on the explicit instructions by authorities. Further, employees have a right to carry their own masks only if there is a high infection risk at their place of work.
- Obligation to close business: The employer is obliged to impose business restrictions or to close down the business premises in case of a respective instruction by authorities. Such obligation also exists in case a continuation of the business would lead to a particularly high infection risk.
- Refusal of business trips by employees: An employee may only refuse a business trip if there is a high risk that the health of the employee will be endangered by the business trip. This will in any case be assumed if a business trip is to be made to an area for which the Foreign Ministry has issued a travel warning. Such a travel warning currently exists for certain areas in Northern Italy (i.e. ten municipalities in Lombardy and one in Veneto) and for the Chinese province Hubei. Furthermore, especially elderly employees, employees with weakened immune systems or pregnant employees are entitled to refuse a business trip.
- Prohibition of holiday trips: The employer cannot unilaterally revoke already approved vacation, if the employee intends a holiday trip to a risk area. In addition, an employee who has planned a trip to China, for example, cannot postpone his holiday without the employer's approval.
- Questions concerning the travel area: The employer is entitled to ask the employee whether he has spent his holiday in a risk area. In the course of his duty of care, the employer may then have to take appropriate measures in order to protect the other employees from infection.



Hot Topics

- Quarantine: If an employee is suspected of being infected with the coronavirus, he must not be employed any longer and will have to be quarantined. The employer must continue paying the remuneration, if the employee is prevented from performing his duties due to a suspected case. However, the employer is entitled to reimbursement of costs from the Federal Government. If, on the other hand, an employee is actually diagnosed with Covid-19, the entitlement to reimbursement of costs from the Federal Government is forfeited and the employee remains entitled to continued remuneration as also in other sickness cases. Such entitlement, however, only exists if the employee did not cause the infection with the Coronavirus intentionally or through gross negligence.
- Delay in returning from a holiday trip: If the employee has travelled to a high-risk area, where a travel warning is in force, and is then stuck - in quarantine or e.g. because no aircraft takes off or train services have been cancelled - the employee is not entitled to continued remuneration, if he has travelled to this area against better knowledge.
- Sending employees home: An employer can in any case unilaterally release an employee from duties. The employee's entitlement to continued remuneration remains in force during such leave of absence. The employee is required to remain available for work. Depending on the employment contract and work activities, home office would also be an appropriate alternative. However, whether the employer can, for example, unilaterally assign an employee to home office, depends on the respective employment contract.
- Instruction to take vacation: A unilateral instruction by the employer to take vacation is legally not permissible, even if the authorities have instructed a business restriction or closure of the business premises. A respective consumption of vacation must always be agreed with the employee.
- Cancellation of events: The employer is obliged to cancel employee events only if such events pose a particularly high infection risk.

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