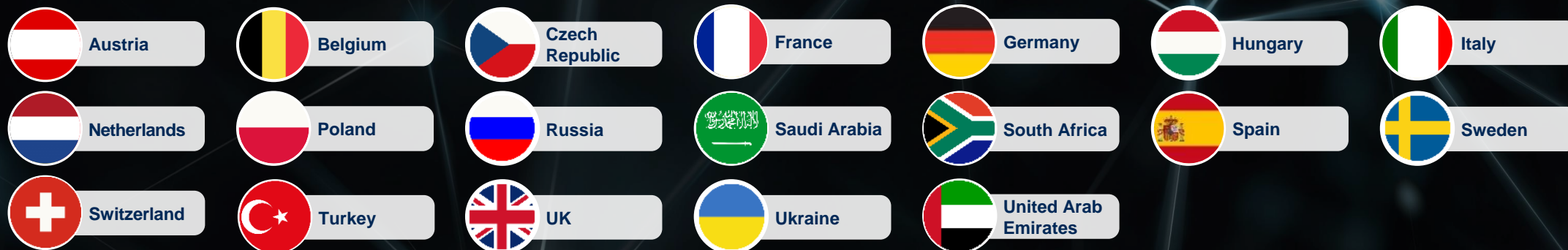


10 March 2020

Following the positive feedback we received on the **First Edition of the Coronavirus: A Quick Guide for employers**, our EMEA Employment and Compensation Team is pleased to provide you with this new and expanded version which now covers 19 jurisdictions across Europe, Middle East and Africa. This quick guide for employers deals with some of the most pressing issues employers are currently faced with in light of the Coronavirus outbreak and includes the latest country updates in the past couple of days. In the words of our French colleagues: "*Pas de Panique*" – don't panic. Use this guide to stay informed, but note that as this situation evolves, so too will the guidance and laws affecting employers in each jurisdiction. The information in this document is presented as at 10 March 2020; the high level guidance in this document is not intended to be comprehensive legal advice.

- Are employees obliged to disclose themselves as a "risk-factor" to the employer?
- Can the employer demand employees to disclose themselves as being a "risk-factor"?
- Can the employer issue an instruction (or a policy) requiring employees to report co-workers with flu symptoms (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness) to the employer?
- Can employees refuse to come to work?
- Can employees refuse to attend meetings or to travel?
- Can the employer send employees on suspension from work?
- When is the employer forced to shut down its operations?
- Does the employer have the obligation to report infections occurring in the business to the health authorities?
- Can the employer require an employee to see a doctor?
- If employees are sent on suspension from work, or refuse to come to work or if an operation is being shut down, do the employees still need to be paid?
- If kindergartens and schools are being closed and employees need to stay home and cannot work, does the employer need to pay them and - if so - for how long?

You can also visit the [\*\*Baker McKenzie Coronavirus Resource page\*\*](#) to access a wealth of reference materials around this topic.



10 March 2020

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# Austria

- 1. Are employees obliged to disclose themselves as a "risk-factor" to the employer?**

Yes, due to the duty of loyalty, Employees with a confirmed infection or suspicious symptoms need to disclose this to the employer.
- 2. Can the employer demand employees to disclose themselves as being a "risk-factor"?**

Yes. The employer is entitled to ask an employee whether he/she has spent his/her holiday in a risk area. Due to its duty of care, the employer may then have to take appropriate measures in order to protect the other employees from infection.
- 3. Can the employer issue an instruction (or a policy) requiring employees to report co-workers with flu symptoms (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness) to the employer?**

Yes, however this is a significant intrusion of privacy in a sensitive area. For reasons of proportionality, the symptoms triggering a reporting obligation need to be defined narrowly and such measure should only be taken if the operations are located in a crisis area or if an employee on site was diagnosed positively. Further, the works council has to give its consent when implementing such policy since it constitutes an infringement of human dignity. Otherwise, such policy may not be enforceable under Austrian law.
- 4. Can employees refuse to come to work?**

Employees can only refuse to come to work if:

  - i. there is a confirmed Coronavirus infection in the work place and
  - ii. the employee's place of work is in close proximity to where the infected employee was located (i.e., same open space office) and
  - iii. the employer cannot re-assign the employee to a no-risk environment at the work place.
- 5. Can employees refuse to attend meetings or to travel?**

  - An employee may only refuse a meeting if there is a high risk that the health of the employee will be endangered by such meeting. In any case, this will be assumed if a meeting is in an area for which the Foreign Ministry has issued a travel warning. Such a travel warning currently exists for the whole country Italy and for the Chinese province Hubei (see: <https://www.bmeia.gv.at/reise-aufenthalt/reisewarnungen/>).
  - Same rule applies for business travel.
- 6. Can the employer send employees on suspension from work?**

Yes, an employer can in any case unilaterally release an employee from his/her 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.





# Austria

7. **When is the employer forced to shut down its operations?**
- 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.
8. **Does the employer have the obligation to report infections occurring in the business to the health authorities?**
- No, only e.g., medical and care staff, doctors, owners of restaurants, bars and cafés etc. who become aware of an infection are required to report to the competent Austrian authority ("*Bezirksverwaltungsbehörde*").
9. **Can the employer require an employee to see a doctor?**
- No, the employer can only recommend the employees to see a doctor. If the employee refuses, the employer can send the employee on paid garden leave under the preconditions stipulated in item 6.
  - Depending on the employment contract and work activities, home office would also be an appropriate alternative. However, whether the employer can unilaterally assign an employee to home office, depends on the respective employment contract.
10. **If employees are sent on suspension from work, or refuse to come to work or if an operation is being shut down, do the employees still need to be paid?**
- In case of a legitimate lock out, suspension from work or shut down, the employee is entitled to continued remuneration.
  - Further, if an employee is suspected of being infected with the Coronavirus, he/she 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 the Coronavirus, the employer's entitlement to reimbursement of costs from the Federal Government is forfeited and the employee remains entitled to continued remuneration as in other sickness cases.
11. **If kindergartens and schools are being closed and employees need to stay home and cannot work, does the employer need to pay them and - if so - for how long?**
- The closure of kindergartens and schools due to the Coronavirus entitles employees to stay at home to take care of the children, as this is to be considered "other important reason" for absence from work. During such care leave, employees are entitled to continued remuneration.
  - Employees are entitled to care leave for one week. However, due to "special circumstances", such one-week period may be extended to a further week (therefore a total of 2 weeks applies). The closure of kindergartens and schools due to the Coronavirus is to be considered as such special circumstance. employees may therefore be entitled to continued remuneration of 2 weeks during their care leave due to the closure of kindergartens and schools.



# Belgium

- 1. Are employees obliged to disclose themselves as a "risk-factor" to the employer?**

  - According to Belgian law, employees are obliged to refrain from causing any damage to the safety of the employer, other employees or third parties.
  - Therefore, on the basis of said statutory provision and the good faith performance of their employment contract, employees could reasonably be considered obliged to disclose themselves as a "risk-factor". However, to that effect, the employer should clearly inform the employees when they are considered to be a "risk-factor".
- 2. Can the employer demand employees (in reaction to the corresponding question) to disclose themselves as being a "risk-factor" as per question no. 1?**

The employer can, and is actually recommended to do so, in light of its statutory obligation to ensure a safe and healthy workplace. As indicated in the first answer, this requires that the employer also sufficiently clearly informs the employees about what is considered to be a "risk-factor".
- 3. Can the employer issue an instruction (or a policy) requiring employees to report co-workers with flu symptoms (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness) to the employer?**

Although it is probably more effective / constructive to just 'encourage' employees to do so, there seems to be no strict employment law-based obstacle why the employer could not issue such instruction (e.g., as a policy), given that the employer is in charge of securing health and safety at the work place.
- 4. Can employees refuse to come to work?**

  - In principle, no - because employees are contractually held to perform their work and to do so at the location as contractually agreed upon.
  - However, the civil law principle of good faith would to our view entitle the employee to temporarily be released from one or more of his contractual obligations if the employer is in the context of a clear and present health risk (objectively) i.e., is unable to keep the work place virus-free.
  - Absent any work performance (i.e., suspension), no salary would be due. To our view, it is only in the theoretical scenario that the employer would be deemed liable for the unsafe workplace, that damages for undue salary could be claimed.



# Belgium

## 5. Can employees refuse to attend meetings or to travel?

- The same principles as set forth in answer 4 apply. If meetings or travels are located in one of the regions that are considered unsafe, the employer cannot validly require its employees to go (doing so would create liability for the employer). As a result, the employees may validly refuse to go.
- All official travel advice can be consulted on the following website:  
[https://diplomatie.belgium.be/nl/Diensten/Op\\_reis\\_in\\_het\\_buitenland/reisadviezen](https://diplomatie.belgium.be/nl/Diensten/Op_reis_in_het_buitenland/reisadviezen).

## 6. Can the employer send employees on suspension from work?

- In the current context, Belgian employment law provides two main grounds for (justified) suspension, i.e., (i) *force majeure*, and (ii) *for economic reasons* (i.e., so-called *economic unemployment*).
- Economic unemployment, i.e., a suspension based on absence of work due to economic reasons is subject to specific rules and conditions, which are different for blue-collar workers (permanent regime) and white-collar employees (i.e., a similar regime albeit subject to a prior recognition as company in difficulty by the federal Ministry of Work). In case of economic unemployment, the employee is entitled to unemployment allowances from the federal Unemployment Office and will usually be paid an additional employer's allowance.
- Whether a specific scenario effectively qualifies as *force majeure*, is subject to discussion, and will ultimately depend on the actual health risk. From a contractual perspective, it would require a situation where the good faith performance of the contract requires the employee to accept that the employer is in light of his work place health obligations reasonably unable to employ the employees notwithstanding all possible preventive and other measures having been taken. Based on the current position of the federal Unemployment Office, *force majeure* when invoked by the employer will only entitle the employee, if due to the absence of resources from impacted countries / regions, production has become impossible.

## 7. When is the employer forced to shut down its operations?

Reference is made to the answer to question 6., as a forced shut down is in essence a general application of suspension of the individual employment contracts for *force majeure* or for economic reasons.

## 8. Does the employer have the obligation to report infections occurring in the business to the health authorities?

- No such obligation exists for employers in Belgium.
- It is however a general obligation of an employer in Belgium to monitor, evaluate and take action if there would be any suspicion of contamination in the workplace. If an employer believes that there is a risk of contamination, it will need to contact the prevention advisor immediately.



# Belgium

## 9. Can the employer require an employee to see a doctor?

- No. However, in a broad interpretation of the health and safety regulations, if an employee shows clear flu symptoms, the employer could ask the company physician to examine that employee. If the company physician decides to do so, the employee has to undergo the medical exam. In case the employee refuses the medical exam, access to the work place can be denied.
- However, the recommended approach is to 'ask' and/or 'advise' the employee to visit a physician.

## 10. If employees are sent on suspension from work, or refuse to come to work or if an operation is being shut down, do the employees still need to be paid?

- No - as a general rule under Belgian employment law, no salary is due if no work has been performed, except in case the law or the contract states otherwise (i.e., so-called guaranteed salary).
- Guaranteed salary will in the current context only be due during the initial 30 days of sick leave.
- As indicated in the answer to question 6, subject to certain conditions and formalities, the federal Unemployment Office will pay unemployment allowances in specific cases of *force majeure* and *economic unemployment*. As a result of a recent decision of the federal government, for the period until 30 June 2020, the amount of the unemployment allowances in both scenarios is increased from 65% to 70% of the (as the case may be, capped) salary.
- Most challenging situation when it comes to payment will be if the employer suspends the contract performance on the basis of force majeure, but in a situation not recognized as force majeure by the Unemployment Office. In such case, no salary and no unemployment allowances will be due. If so, employees risk to challenge the employer's qualification of force majeure and could claim damages equal to the salary they would have earned. Such claim will eventually depend on whether the employer was in the specific health situation concerned and is actually reasonably unable to employ the employees.
- If employees have to work from home, salary will be due.

## 11. If kindergartens and schools are being closed and employees need to stay home and cannot work, does the employer need to pay them and - if so - for how long?

- No - as a general rule under Belgian employment law, no salary is due if no work has been performed, unless the law or the contract states otherwise (i.e., so-called guaranteed salary).
- The case of closed schools / kindergartens without other 'solution' for the children, would in principle qualify as a 'compelling reason' for absence, i.e., a justified suspension ground set forth in the national CBA n° 45. This justification ground could be used up to 10 days per calendar year, and is non-remunerated.
- As 'compelling reason' leave of absence requires an "**unforeseeable event, independent of the employment, which causes the urgent and necessary intervention by the employee and this to the extent that the performance of the employment contract makes this intervention impossible**", the employee will nevertheless be expected to undertake all reasonably possible steps to arrange for child care.



# Czech Republic

- 1. Are employees obliged to disclose themselves as a "risk-factor" to the employer?**

  - Generally, all employees have the obligation to take care of the safety and health of individuals who are directly affected by their actions or omissions at work.
  - This could imply that employees are obliged to disclose themselves as a "risk-factor". However, to provide the employees with clarity as to when they are considered to be a "risk-factor", a clear definition should be communicated to employees first.
  - Furthermore, note that on 6 March 2020, the Ministry of Health adopted the following extraordinary measure: all individuals with a permanent residence in the Czech Republic returning from Italy after 7 March 2020 are obliged to inform their medical provider by telephone without undue delay after their return. The medical provider is obliged to order those individuals into quarantine for 14 days. A fine of up to CZK 3,000,000 can be imposed in case of breach.
- 2. Can the employer demand employees to disclose themselves as being a "risk-factor"?**

Yes, since the employer has a general responsibility to ensure a healthy and safe workplace.
- 3. Can the employer issue an instruction (or a policy) requiring employees to report co-workers with flu symptoms (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness) to the employer?**

No, this would not be recommended.
- 4. Can employees refuse to come to work?**

Generally, an employee can refuse to perform work which the employee reasonably regards as imposing a direct and serious threat to his/her health or life or the health or life of other individuals. However, we are of the view that in the current circumstances, the employee's refusal to come to work would be unjustified.
- 5. Can employees refuse to attend meetings or to travel?**

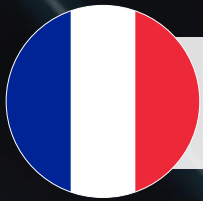
An employee can refuse to perform work which the employee reasonably regards as imposing a direct and serious threat to his/her health or life or the health or life of other individuals. Such refusal must not be considered a breach of obligations. Therefore, it will depend on the individual circumstances of the case, especially on the target country or area (the employer should distinguish between high risk affected countries and areas (e.g., China, Northern Italian regions) and countries and areas where the virus has not yet been confirmed or where the virus occurs only sporadically).





# Czech Republic

- |   |   |
|---|---|
| 6. Can the employer send employees on suspension from work?   | Yes, the employer can send an employee on garden leave. In such case, the employee would be entitled to a salary reimbursement in the amount of the employee's average earnings.  |
| 7. When is the employer forced to shut down its operations?   | The employer is obliged to impose business restrictions or to close down the business premises in case of a respective instruction by authorities.  |
| 8. Does the employer have the obligation to report infections occurring in the business to the health authorities?  | No, the employer is not obliged to report to the authorities.   |
| 9. Can the employer require an employee to see a doctor?  | <ul style="list-style-type: none"><li>■ The employer cannot require the employee to undergo a special test for the Coronavirus.</li><li>■ If the employer has doubts whether the employee is fit to work, the employer can send the employee for an extraordinary medical check. However, in the current circumstances, the employer should verify the planned approach with the occupational health facility first.</li></ul>  |
| 10. If employees are sent on suspension from work, or refuse to come to work or if an operation is being shut down, do the employees still need to be paid?       | <ul style="list-style-type: none"><li>■ An employee on garden leave is entitled to a salary reimbursement in the amount of the employee's average earnings.</li><li>■ If an employee refuses to come to work without reason, such absence would be classified as unexcused absence and the employee will not be entitled to any remuneration.</li><li>■ Temporary closure of operations would be classified as another obstacle to work on the employer's side, i.e., a situation in which an employee is entitled to time off since he/she cannot perform work due to reasons on the employer's side. During this period employees would be entitled to a salary reimbursement in the amount of the employee's average earnings.</li></ul> |
| 11. If kindergartens and schools are being closed and employees need to stay home and cannot work, does the employer need to pay them and - if so - for how long? | Although the employer will have the obligation to excuse the absence of such employees, the employer will not have to pay them. The employees will be paid by the Social Security.  |



# France

- 1. Are employees obliged to disclose themselves as a "risk-factor" to the employer?**

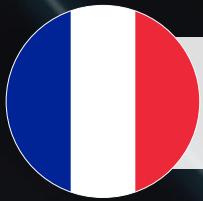
  - The French government had initially indicated that it was only "recommended" for employees to inform their employer if they have flu symptoms or if they visited the crisis area within the past 14 days. The authorities have now recently emphasized the fact that employees must inform their employer of any situation that could present a risk for other employees' health.
  - Employers should nonetheless be aware of employees' right of privacy and only request strictly necessary information. It is recommended to ask employees to voluntarily disclose such information whilst insisting on the reasons for the request for such information (to protect the workforce). Indeed, since employees have an obligation to protect other employees' health, employees should be kindly asked to disclose any relevant information.
- 2. Can the employer demand employees to disclose themselves as being a "risk-factor"**

Due to data privacy requirements this should be carried out with caution. However, since the employer has an obligation to protect its employees (and employees also have a similar obligation), it seems possible for the employer to invite employees to disclose such information in order to protect other employees. Health information should not be requested and employees should be invited to contact the appropriate authorities.
- 3. Can the employer issue an instruction (or a policy) requiring employees to report co-workers with flu symptoms (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness) to the employer?**

  - No, for data privacy reasons this would not be recommended. However, again since both employees and employers have an obligation to protect other employees, employees could be more generally invited to raise any health and safety concerns they may have in the workplace.
  - Employees should also be reminded that everyone should take all possible measures to protect their own health and others.
- 4. Can employees refuse to come to work?**

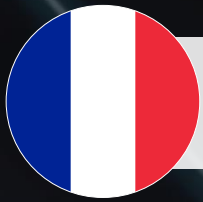
  - Employees can only refuse to come to work if there is a clear risk for their health and safety for example if there is a confirmed Coronavirus infection in the work place and the employee's place of work is in close proximity to where the infected employee was located (i.e., same open space office) and the workplace has not been cleaned.
  - Employees have a right to retreat from a situation that they perceive to be dangerous ("*droit de retrait*") if the employer has not implemented all prevention and preventive measures. Therefore, it is essential to inform and train employees.
- 5. Can employees refuse to attend meetings or to travel?**

Currently it is recommended not to travel to certain regions (see: <https://www.gouvernement.fr/info-Coronavirus>). The government has recently indicated that employees would have a right to use their right to retreat ("*droit de retrait*") if the employer does not comply with the government recommendations.



# France

- |   |   |
|---|---|
| 6. Can the employer send employees on suspension from work?   | <ul style="list-style-type: none"><li>■ If an employee qualifies as a "risk factor" based on the criteria set out in the response to item 1, the employer is obliged to implement work at home (preferably) or ensure that the employee avoids meetings/ confined spaces / fragile persons. If this is not possible, it is possible to ask the employee to remain home.</li><li>■ The employee would need to continue to work if possible (e.g., from the home office) unless sick.</li></ul>   |
| 7. When is the employer forced to shut down its operations?   | <ul style="list-style-type: none"><li>■ Only if there is evidence that the place of work presents a significant risk for employees' health and safety or if operations cannot be continued due to the lack of personnel.</li><li>■ This decision should preferably be made in consultation with local health authorities (e.g., medecine du travail), employee representatives and local State authorities.</li><li>■ employees have a right to retreat from a situation that they perceive to be dangerous ("<i>droit de retrait</i>") if the employer has not implemented all prevention and preventive measures.</li></ul> |
| 8. Does the employer have the obligation to report infections occurring in the business to the health authorities?  | <p>We are aware of no legal provision, therefore in theory, only medical staff and doctors who become aware of an infection are required to report to the health authorities. However in practice, it is recommended that the employer reports the situation to the local health authorities (e.g., medecine du travail) and local State authorities - A.R.S.) whilst complying with employees right to privacy.</p>  |
| 9. Can the employer require an employee to see a doctor?  | <p>No, the employer can only recommend that the employee see a doctor. If the employee refuses, the employer can call the French emergency authorities.</p>   |
| 10. If employees are sent on suspension from work, or refuse to come to work or if an operation is being shut down, do the employees still need to be paid? | <ul style="list-style-type: none"><li>■ Where possible, it is recommended to implement work from home.</li><li>■ In case of a legitimate lock out, suspension from work or shut down, the employee would need to be paid. However there are certain government financial assistance schemes in case of temporary "unemployment".</li></ul>  |



# France

**11. If kindergartens and schools are being closed and employees need to stay home and cannot work, does the employer need to pay them and - if so - for how long?**

Assuming that the employee has no other child care solution and cannot work from home, either (a) the employee could contact the Regional Health Agency (ARS) ([www.ars.sante.fr](http://www.ars.sante.fr)) so that a doctor authorized by the Regional Health Agency can provide the employee with a medical certificate ("*arrêt de travail*") or (b) the employer can request a medical certificate online: [www.ameli.fr](http://www.ameli.fr) / [www.declare.ameli.fr](http://www.declare.ameli.fr) corresponding to the child's recommended period of isolation. Only one parent of a child less than 16 years old can request this and this parent must certify that it is the only employee requesting this. The employee will be then considered as being on a form of "sick leave". The employee will be entitled to a daily allowance from social security authorities ("*indemnité journalière de sécurité sociale*") for a period of up to 20 days and an additional indemnity paid by the employer in order to maintain salary (the additional payment from the employer is generally applicable to employees with at least one year of seniority within the company). We would recommend to verify with payroll and benefits providers how to manage this. Recent government recommendations have insisted on the fact that employees should preferably work from home where possible.

Additional comments/ recommendations:

- Comply with government recommendations (the employment ministry published a guide on 28 February 2020 which was updated on 9 March 2020);
- Note the requirement to consult employee representatives in case of a significant modification of work organization (e.g., mandatory work from home). However, urgent measures can be taken prior to consultation if need be;
- Treat it as essential to take all measures to protect employees' health and safety and business continuation (e.g., inform employees of risks and health recommendations, properly clean the office in case of contamination, avoid group meetings unless this is essential).





# Germany

- 1. Are employees obliged to disclose themselves as a "risk-factor" to the employer?**

  - Employees with a confirmed infection need to disclose the same to their contractual employer.
  - Employees with flu symptoms who
    - i. visited or
    - ii. had contact with individuals from **areas with presumed community transmission of COVID-19** (e.g., China, Italy, North or South Korea, Japan, Singapore, Hong Kong and Iran) within the past 3 weeks need to disclose this circumstance.
  - Even without flu **symptoms** (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness), employees who
    - i. have an individual with a confirmed infection in their household or
    - ii. visited an event, which later became known to be a venue from which the disease spread, need to disclose this circumstance to their employer.
- 2. Can the employer demand employees to disclose themselves as being a "risk-factor"?**

The employer's right to ask certain questions has as counterpart the employees' obligation to disclose the corresponding information (i.e., the employer has the right to ask for the circumstances specified as per question no. 1 and the employee has to provide the corresponding and truthful answer).
- 3. Can the employer issue an instruction (or a policy) requiring employees to report co-workers with flu symptoms (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness) to the employer?**

Yes, but this is a significant intrusion on privacy in a sensitive area. For reasons of proportionality at least the following precautions should be taken:

  - i. **Limit geographic scope:** The reporting possibility should only be offered for employees of
    - a. sites located in **areas with presumed community transmission of COVID-19**, or
    - b. sites in which an employee was diagnosed positively with a Coronavirus infection; or
    - c. sites in which an employee had allegedly come in contact with an individual with a confirmed infection.
  - ii. **Offer, don't oblige to report:** The reporting possibility should be phrased as an invitation to report, rather than as an obligation to report (under German law it is very questionable whether a reporting obligation can be created unilaterally by means of an instruction);
  - iii. **Keep reports within the employer:** The reporting channel should be limited to the employer (i.e., the contractual employer and not to anyone else in the group of companies and not to third parties) and within such employer to a narrowly defined group of recipients (e.g., the Coronavirus crisis team);



# Germany

**3. Can the employer issue an instruction (or a policy) requiring employees to report co-workers with flu symptoms (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness) to the employer?**

- iv. Limit reportable content:** It should be made clear that
- a. the reporting channel must only be used with regard to the fact that symptoms exist and not for reporting an individual's specific symptoms and
  - b. The reportable symptoms are limited to the publicly known and acknowledged list of **symptoms** (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness);
- v. Separate reports from other employee data:** The information reported through the reporting channel should be recorded separately, not be included in the employee's personnel file and should be deleted 6 weeks after recording;
- vi. Create transparency:** A transparent notice, containing information according to [Art. 13 GDPR](#), needs to be issued to all employees (including contingency workers) before the reporting line is opened, especially as regards the points mentioned herein, but also as regards the steps envisaged by the employer upon having received a report);
- vii. Inform data subjects:** The employee concerned by a report has to be notified as soon as possible;
- viii. Decide how to treat the reporters:** There is an ongoing discussion in Germany whether the data subject (i.e., the reported subject) has the right to learn who reported him or her – we deem it possibly (even though not entirely risk free) to assure reporters to treat their reports in confidence when such reports were made in good faith.

Even though not a privacy compliance issue, please note that the works council has a co-determination right with regard to the technical system used to implement the reporting line and the reporting requirements.

**4. Can employees refuse to come to work?**

Employees can only refuse to come to work if

- i. there is a confirmed Coronavirus infection in the work place and
- ii. the employee's place of work is in close proximity to where the infected employee was located (i.e., same open space office) and
- iii. the employer cannot reassign the employee to a no-risk environment at the workplace.

**5. Can employees refuse to attend meetings or to travel?**

- Only if the meeting takes place in a region officially recognized by authorities as being a crisis-region or if attendees visiting from crisis-regions would attend (for information see <https://www.auswaertiges-amt.de>)
- Same rule applies for business travel.

**6. Can the employer send employees on suspension from work?**

- If an employee qualifies as a "risk factor" based on the criteria set out in the response to question no. 1, the employer is obliged to lock out the employee.
- The employee would need to continue to work if possible (e.g., from the home office) unless sick.



# Germany

7. **When is the employer forced to shut down its operations?**
- Only if there is evidence that the place of work is an "out of control crisis venue".
  - This decision should only be made in consultation with local health authorities (Gesundheitsamt).
- 
8. **Does the employer have the obligation to report infections occurring in the business to the health authorities?**
- No, only medical staff and doctors who become aware of an infection are required to report to the health authorities (<https://www.gesetze-im-internet.de/coronavmeldev/>).
- 
9. **Can the employer request an employee to see a doctor?**
- No, the employer can only recommend the employees to see a doctor. If the employee refuses, the employer can send the employee on paid garden leave under the preconditions stipulated in item 6.
- 
10. **If employees are sent on suspension from work, or refuse to come to work or if an operation is being shut down, do the employees still need to be paid?**
- In case of a legitimate lock out, suspension from work or shut down (based on the requirements stipulated in these FAQ), the employee would need to be paid.
  - But the employee would also be required to take all reasonable steps to work from home. Further, the employee would need to accept being temporarily reassigned physically within the workplace to a no-risk environment (i.e., other office) or to be assigned with different duties even if these are inferior to the standard duties (unless entirely unacceptable).
- 
11. **If kindergartens and schools are being closed and employees need to stay home and cannot work, does the employer need to pay them and - if so - for how long?**
- If kindergartens and schools are being closed and alternative care options (such as grandparents or other facilities) do not exist, the employee can refuse performing work for such time. Unless stipulated otherwise in the employment contract, the employer would need to continue paying the employee for the duration of a "temporary unavailability". While subject to the specifics of the case, case law suggests that a temporary unavailability in case of urgent childcare needs may last no longer than 5 work days.



# Hungary

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| 1. <b>Are employees obliged to disclose themselves as a "risk-factor" to the employer?</b>   | Yes, within the scope of their duty of cooperation, employees are obliged to report if they are infected or show signs of infection.  |
| 2. <b>Can the employer demand employees to disclose themselves as being a "risk-factor"?</b>   | Yes, in order to maintain a safe work environment that does not endanger health, which is the employer's main responsibility. However employers must pay particular attention to the protection of their employee's privacy.  |
| 3. <b>Can the employer issue an instruction (or a policy) requiring employees to report co-workers with flu symptoms (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness) to the employer?</b> | Yes, for the same reasons as in item no. 2. Procedures for reporting and processing personal data must be in writing and employees must be informed in advance. If there is an employee representative body at the employer, they must be consulted beforehand.   |
| 4. <b>Can employees refuse to come to work?</b>  | Yes. According to the general provisions of Hungarian Labour Law, employees may refuse to come to work or to comply with an instruction if it would result in direct and grave risk to the life, physical integrity or health of the employee or others. Therefore, they can refuse to come to work if they have a justified reason, e.g., if the workplace is actually infected or if there is great and justified risk during commuting.  |
| 5. <b>Can employees refuse to attend meetings or to travel?</b>  | Yes. The same rule applies as the in the previous case. employee can refuse to attend meetings or to travel if the meeting would take place or the destination of the travel is located in an infected region or if there is great and justified risk during travel.  |
| 6. <b>Can the employer send employees on suspension from work?</b>   | <p>Yes, the employer is entitled to choose from certain possible solutions:</p> <ol style="list-style-type: none"><li>1. <b>Temporary assignment:</b><br/>employer might oblige employees to work at locations different from a normal workplace, for a maximum of 44 days per year. Also, if the technical requirements are given, employees can be obliged to work from home.</li><li>2. <b>Sending on paid leave</b><br/>The employer is entitled to schedule and grant the vacation to the employees up to 7 days per year. The employee must be notified of being sent to vacation at least 15 days earlier (which might be shortened in case of an emergency).</li><li>3. <b>Temporary release from service</b><br/>employee is entitled to base wage for the stand period.</li></ol> |





# Hungary

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| 7. <b>When is the employer forced to shut down its operations?</b>   | On the basis of the decision of the competent authorities or if it may be justified, because otherwise the health and safety of employees cannot be guaranteed.  |
| 8. <b>Does the employer have the obligation to report infections occurring in the business to the health authorities?</b>  | No, medical staff and doctors are obliged to report an infection at this stage.  |
| 9. <b>Can the employer require an employee to see a doctor?</b>  | Yes, if the employee is unable to perform his or her job or shows symptoms of the Coronavirus. In other cases, in our view, the employer should not oblige the employee to see a doctor.   |
| 10. <b>If employees are sent on suspension from work, or refuse to come to work or if an operation is being shut down, do the employees still need to be paid?</b>       | <p>1. <b>If the employer decides to suspend work temporarily</b></p> <p>If the employer decides to suspend work as it cannot guarantee the healthy working environment or cannot continue the operation due to the Coronavirus, but it is not based on a decision of the relevant authority, we are of the opinion that the employer has to pay the basic salary for the working time, unless this is due to an unavoidable external reason, which must be assessed individually.</p> <p>2. <b>Forced shutdown</b></p> <p>A shutdown forced by the authorities shall be deemed as an unavoidable external reason. In such case, the employer may be exempted from the obligation of paying wages.</p> <p>3. <b>Refusal of the employee to come to the workplace</b></p> <p>If the employee refuses to come to work for legitimate reasons, he/she might be entitled to remuneration. If the employee is away from work with the consent of the employer, this is considered a proven absence and, as a rule, is remunerated as agreed by the parties. If the employee is absent without the employer's consent or without a legitimate reason, he will not be remunerated.</p> |
| 11. <b>If kindergartens and schools are being closed and employees need to stay home and cannot work, does the employer need to pay them and - if so - for how long?</b> | There is no statutory obligation to pay wages in this case. Such absence will qualify as a certified absence and based on the principles of good faith, fairness and fair consideration, it is likely to be remunerated as agreed by the parties.  |



# Italy

**1. Are employees obliged to disclose themselves as a "risk-factor" to the employer?**

- All individuals present in Italy are subject to very strict restrictions on mobility. Mobility is limited to cases justified by
  - i. reasons of work;
  - ii. necessity;
  - iii. health;
  - iv. to reach one's domicile if they were outside the country before March 8, 2020.Police and Public Officers will ask people moving around to justify the reason why they are doing so, also by means of a self-certification to be signed in front of the Officer.
- Anyone in Italy who has cold or flu symptoms are confined to their domicile until they are tested for COVID-19; they need to inform their employer and the local Sanitary Authorities.
- Anyone in Italy who has tested positive to COVID-19 is mandatorily confined to their domicile.
- Criminal sanctions apply in case of violation of the above provisions.

**2. Can the employer demand employees (in reaction to the corresponding question) to disclose themselves as being a "risk-factor" as per question no. 1?**

The right to ask questions is mirrored by the obligation of employees to disclose, i.e., the employer may ask for the circumstances specified in item 1. This also extends to agents, suppliers, visitors, employees' family members, etc., i.e., companies may ask individuals entering the workplace to sign a statement certifying that they do not present symptoms. This kind of checking is considered valid to the extent that it is done in a reasonable manner.

**3. Can the employer issue an instruction (or a policy) requiring employees to report co-workers with flu symptoms (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness) to the employee?**

Given the exceptional circumstances currently occurring in Italy, anyone who is aware of an individual who has flu symptoms and who has not received assistance, should immediately report the case to the appropriate Health and Regional Authorities. This extends also to employees and employers: employees who fear that a colleague is ill should inform their employer, who in turn should contact the company doctor and Health and Regional Authorities.



# Italy

## 4. Can employees refuse to come to work?

- Business activity is subject to strict regulations in all parts of Italy, especially on mobility of employees mentioned in 1 above.
- Smart-working must be done everywhere in Italy and whenever possible.
- Meetings should take place via audio-video systems unless meeting in person is absolutely necessary and in this case a minimum distance of at least 1 meter between participants must be complied with.
- Employees can only refuse to come to work if the workplace is not safe, for example if there are confirmed cases of infection among workforce.

## 5. Can employees refuse to attend meetings or to travel?

- Business activity is subject to strict regulations in all parts of Italy, especially on mobility of employees mentioned in 1 above. Movement for work-related reasons is permitted but must be proven via a self-certification statement to be signed by the employee when asked by the Police / Public Authority.
- Meetings should take place via audio-video systems unless meeting in person is absolutely necessary and in this case a minimum distance of at least 1 meter between participants must be complied with.
- On the entire territory of Italy, conferences and business events are suspended.

## 6. Can the employer send employees on suspension from work?

- If an employee is absent because he/she has been infected by Coronavirus, rules governing sick leave apply and the employee is mandatorily confined to his/her domicile.
- If an employee is not sick but in quarantine as a result of an order of the public authorities, this is considered impossibility of performance or force majeure. Consequently, both the employee and the employer are freed from their respective obligations — the employee from performing working activity and the employer from the obligation to pay remuneration.
- Smart-working must be done everywhere in Italy and whenever possible.
- If smart-working is not possible and the employee is unable to normally perform his/her working activity, the employee should encourage the employee to use vacations or agree on a period of paid or unpaid leave linked to the occurrence of uncommon events.
- Certain social shock absorbers will be made available to qualifying companies in case of partial or total suspension of working activity linked to the COVID-19 outbreak.

## 7. When is the employer forced to shut down its operations?

- Business activity is subject to strict regulations in all parts of Italy, especially on mobility of employees mentioned in 1 above.
- In other areas of Italy, a business would have to shut down in the presence of confirmed COVID-19 cases among workforce. This decision would have to be made after informing and in consultation with local Health and Regional Authorities. Social shock absorbers will be made available for these exceptional cases.



# Italy

8. **Does the employer have the obligation to report infections occurring in the business to the health authorities?**
- Yes. This information needs to be immediately disclosed to the company doctor as well as to local Health and Regional Authorities.
9. **Can the employer request an employee to see a doctor?**
- Given the exceptional circumstances currently occurring in Italy, the employer should immediately inform the company doctor if an employee presents symptoms and tell the employee to visit a doctor immediately, by asking him/her to leave the workplace. The employee has to immediately report his state of illness to local health authorities via a phone number made available in each region.
10. **If employees are sent on leave / suspension from work, or refuse to come to work or if an operation is being shut down, do the employees still need to be paid?**
- In case a company is forced to close, this would be considered impossibility of performance or force majeure. Consequently, both the employee and the employer are freed from their respective obligations — the employee from performing working activity and the employer from the obligation to pay remuneration.
  - Note that smart-working should be done everywhere in Italy and whenever possible. If an employee continues to refuse to come to work, in the absence of a legitimate reason (for example, in the absence of confirmed cases of COVID-19 or other risk factors) and smart-working or use of holidays / leaves is not possible, this could be considered an unjustified absence, something that is relevant from a disciplinary point of view and can lead to disciplinary termination in certain cases.
11. **If kindergartens and schools are being closed and employees need to stay home and cannot work, does the employer need to pay them and - if so - for how long?**
- All schools in Italy, from kindergarten to universities, are closed until 3 April 2020. Further extensions are highly probable. There are no specific provisions of the law that would give an employee the right to stay home and not work since their children are not going to school. If applicable, parents should use holidays, paid time off, parental leave or other forms of leave that may be available under the applicable CBA or agreed with the employer. The Italian Government is currently discussing the introduction of special baby-sitter vouchers for certain categories of individuals as well as an extraordinary leave for parents.





# Netherlands

- 1. Are employees obliged to disclose themselves as a "risk-factor" to the employer?**

  - Employees with a confirmed infection need to disclose the same to their contractual employer.
  - Employees with flu symptoms who
    - i. visited or
    - ii. had contact with individuals from areas with presumed community transmission of COVID-19 (e.g., China, Italy, North or South Korea, Japan, Singapore, Hong Kong and Iran) within the past 3 weeks need to disclose this circumstance.
  - Even without flu symptoms (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness), employees who
    - i. have an individual with a confirmed infection in their household or
    - ii. visited an event, which later became known to be a venue from which the disease spread, need to disclose this circumstance to their employer.
- 2. Can the employer demand employees to disclose themselves as being a "risk-factor"?**

Same as item no. 1 above, however if the employee is ill at home he/she does not have to reveal the nature of the illness.
- 3. Can the employer issue an instruction (or a policy) requiring employees to report co-workers with flu symptoms (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness) to the employer?**

Yes, but this is a significant intrusion on privacy in a sensitive area. Please refer to the guidance under item no. 3 in Germany's content in this regard.
- 4. Can employees refuse to come to work?**

Employees can only refuse to come to work if

  - i. there is a confirmed Coronavirus infection in the work place and
  - ii. the employee's place of work is in close proximity to where the infected employee was located (i.e., same open space office) and
  - iii. the employer cannot re-assign the employee to a no-risk environment at the work place.
- 5. Can employees refuse to attend meetings or to travel?**

The position is the same as for Germany, but an employee can refuse business travel under the circumstances that he/she is seriously anxious. It will be debatable if it is good employment practice to ask employees to do business travels if they have serious problems with it at the moment.



# Netherlands

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| 6.  | <b>Can the employer send employees on suspension from work?</b>  | If an employee qualifies as a "risk factor" based on the criteria set out in the response to question no. 1, the employer is obliged to lock out the employee. The employee will need to continue working if possible (e.g., from the home office) unless sick.  |
| 7.  | <b>When is the employer forced to shut down its operations?</b>  | Only if there is evidence that the place of work is an "out of control crisis venue".<br>■ This decision should only be made in consultation with local health authorities.  |
| 8.  | <b>Does the employer have the obligation to report infections occurring in the business to the health authorities?</b>   | No, only medical staff and doctors who become aware of an infection are required to report to the health authorities   |
| 9.  | <b>Can the employer request an employee to see a doctor?</b>   | No, the employer can only recommend the employees to see a doctor. If the employee refuses, the employer can send the employee on paid suspension from work under the preconditions stipulated in item no. 6.  |
| 10. | <b>If employees are sent on suspension from work, or refuse to come to work or if an operation is being shut down, do the employees still need to be paid?</b>       | In case of a legitimate lock out, suspension from work or shut down (based on the requirements stipulated in these FAQ), the employee would need to be paid.<br>■ But the employee would also be required to take all reasonable steps to work from home. Further, the employee would need to accept being temporarily reassigned physically within the work place to a no-risk environment (i.e., other office) or to be assigned with different duties even if these are inferior to the standard duties (unless entirely unacceptable).   |
| 11. | <b>If kindergartens and schools are being closed and employees need to stay home and cannot work, does the employer need to pay them and - if so - for how long?</b> | ■ This must be assessed on a case-by-case basis. Assuming there is no risk that the employee has been infected by Coronavirus and can come to the office, the employer may in principle require the employee to take measures in response, i.e., arrange for alternative care, stay home whilst taking up days' holiday, etc. This could however be different if there is a risk of the employee having the Coronavirus or any formal advice from the Dutch government (e.g., the Dutch government now advises employees living and working in some parts of the Netherlands to work from home and not come to the office).<br>■ Under the circumstances, the employee could also invoke contingency leave. In that case, based on Dutch statute the employee is eligible for continued payment for a few hours up to a number of days, depending on the situation. If the child of an employee is ill, it could also be possible to invoke short term care leave. This applies for a maximum of twice the number of hours the employee works per week and during that period, the employee is eligible for 70% of the salary. |



# Poland

- 1. Are employees obliged to disclose themselves as a "risk-factor" to the employer?**

  - The employer cannot oblige the employees to proactively disclose that they may be a "risk-factor" (have symptoms or returned recently from the affected area).
  - However, the employees are free to (and should) disclose such information on their own.
- 2. Can the employer demand employees to disclose themselves as being a "risk-factor"?**

  - There are no official guidelines in this regard.
  - However, it seems that due to legitimate interest of the employer (obligation to ensure health and safety at the workplace), the employer can demand that the employees submit statements stating that they have not recently travelled to the affected area.
- 3. Can the employer issue an instruction (or a policy) requiring employees to report co-workers with flu symptoms (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness) to the employer?**

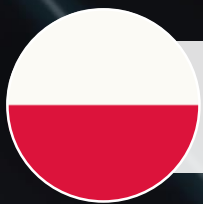
  - There are no official guidelines in this regard.
  - Given the extraordinary circumstances and the employer's general obligation to ensure health and safety at the workplace, the employer may ask other employees to report if they observe flu symptoms that could mean that the relevant employee is a "risk-factor".
  - Given the fact that such practice is a significant intrusion on privacy, the employees should report their concerns in a discreet manner.
- 4. Can employees refuse to come to work?**

Employees can only refuse to come to work if it poses a risk to their life or health, in particular if:

  - (i) there is a confirmed infection in the workplace and
  - (ii) if the employee's place of work is in close proximity to where the infected employee was located (i.e., same open space office) and
  - (iii) the employee may not perform work from home and
  - (iv) if the employer cannot reassign the employee to a no-risk environment at the workplace.
- 5. Can employees refuse to attend meetings or to travel?**

  - Yes, the employee may refuse to attend meeting if the working conditions in the said place impose direct danger on the employee's life or health.
  - The same applies for business travels.
- 6. Can the employer send employees on suspension from work?**

  - If the employer is aware of the fact that the employee is a "risk-factor" (has flu symptoms or just returned from affected area), the employee may ask such employee to work from home (provided that is not actually sick).
  - If work from home is not possible, then the employee should be sent on suspension from work. Alternatively, the employee may decide to use his / her holiday leave (the employer must not unilaterally send the employee on a leave).



# Poland

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| <b>7. When is the employer forced to shut down its operations?</b>   | The operations should be shut down when there is evidence that the place of work is an "out of control crisis venue".  |
| <hr/>  |  |
| <b>8. Does the employer have the obligation to report infections occurring in the business to the health authorities?</b>  | <ul style="list-style-type: none"><li>■ No, it is the obligation of the medical staff to confirm that the infection actually occurred.</li><li>■ Currently, based on the special statutory act on counteracting Coronavirus that was adopted recently, the Chief Sanitary Inspector will be able to order employers to implement certain preventive or control activities and request information in this regard. In addition, the Prime Minister, at the request of the <i>voivode</i> and after informing the minister of economy, will be able to impose additional obligations on employers.</li></ul> |
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| <b>9. Can the employer require an employee to see a doctor?</b>  | <ul style="list-style-type: none"><li>■ The National Labour Inspectorate in official guidelines stipulates that it is not possible.</li><li>■ However, based on case law, in case the employer has justified reason to believe that the health state of the employee has changed, then the employer is authorized to send the employee for additional medical check with occupational physician (e.g., due to visible symptoms such as a cough and fever).</li></ul>   |
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| <b>10. If employees are sent on suspension from work, or refuse to come to work or if an operation is being shut down, do the employees still need to be paid?</b>       | <ul style="list-style-type: none"><li>■ In case of a justified lock out, suspension from work or shut down, the employee would need to be paid.</li><li>■ However, as mentioned in item no. 6 above, if possible, the employee would also be required to take all reasonable steps to work from home.</li></ul>  |
| <hr/>  |  |
| <b>11. If kindergartens and schools are being closed and employees need to stay home and cannot work, does the employer need to pay them and - if so - for how long?</b> | The employee taking care of a child up to 8 years old in connection with the closure of a nursery, children's club, kindergarten or school due to Coronavirus will be entitled to an additional care allowance from the Social Security Authority for a maximum of 14 days.  |





# Russia

This advice is likely to change as the situation develops and the Russian authorities may adopt new legislation or recommendations.

- 1. Are employees obliged to disclose themselves as a "risk-factor" to the employer?**

  - Under the Russian Labor Code employees must inform the employer without delay of the emergence of a situation presenting a hazard to the life and health of people. Thus, they should disclose themselves as a "risk-factor" to the employer.
  - **For Moscow:** as of 5 March 2020 all employees who return from states who display possible "unfavorable" signs of COVID-19 (China, the Republic of Korea, Iran, Italy, France, Germany, Spain, Switzerland, the UK, Norway, the USA) must report to the Moscow city hotline (+7 495 870 45 09) and must self-isolate themselves at home for 14 days. Thus employees should disclose themselves as a "risk-factor" to the employer in order to self-isolate at home.
  - Comments for Moscow are based on the Mayor of Moscow Decree dated 5 March 2020 #12 UM On Introduction of High Alert Regime.
  - In this Decree, only 7 "unfavourable for COVID-19" countries are referred to directly: China, the Republic of Korea, Iran, Italy, France, Spain and Germany, alongside the reference to a certain list of other countries to be approved by the Moscow Department of Rospotrebnadzor (a Government agency supervising the protection of consumer rights and human welfare, including epidemiological safety). As of now, we cannot find the original list of countries falling under the above Decree, but see different references to it on sites of mass media. The recent publications show that Norway, Spain, Switzerland, the UK, and the USA were excluded from this list, leaving only the countries directly named in the above Decree.
- 2. Can the employer demand employees (in reaction to the corresponding question) to disclose themselves as being a "risk-factor" as per question no. 1?**

The employer's right to ask certain questions has as counterpart the employees' obligation to disclose the corresponding information (i.e., the employer has the right to ask for the circumstances specified as per question no. 1 and the employee has to provide the corresponding and truthful answer).
- 3. Can the employer issue an instruction (or a policy) requiring employees to report co-workers with flu symptoms (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness) to the employer?**

Yes, the employer can develop and issue a local policy setting out provisional rules of Internal Labor Regulations that would be effective during the period of COVID-19 threat. In this policy, the employer can impose rules that are not directly regulated by statutes, but may be recognized as reasonable and reflect the employer's general obligation to provide safe work conditions. These rules could include the obligation to report contacts with potential virus vectors and visitors to virus-hit regions, to abstain from reporting at workplace when feeling unwell, to switch to work from home and other rules.



# Russia

4. **Can employees refuse to come to work?**
- Employees may refuse to come to work if they have justified reasons for absence, e.g., they have applied for medical assistance from a medical institution and obtained a sick leave certificate.
  - **For Moscow:** Employees must not appear at work for 14 days if they returned from states which display possible "unfavorable" signs of COVID-19. If they need a sick leave certificate they may apply to a hotline of Moscow Department of Health and request for a sick leave certificate stating that they have recently returned from states which display possible "unfavorable" signs of COVID-19. In this case, a medical specialist will deliver them their sick-leave certificate at home.
5. **Can employees refuse to attend meetings or to travel?**
- The employer is obliged to ensure safe working conditions and labor protection for its employees. employees may refuse to attend meetings if the working conditions in said place impose direct danger on the employees' life or health.
  - Same rule applies for business travels.
  - **For Moscow:** Employees must stay at home for 14 days and refuse to attend business meetings or go on business travels if they returned from states which display possible "unfavorable" signs of COVID-19. Such employees can prove their work incapacity by sick-leave certificates that they can get at the airport or at home without going to medical institutions.
6. **Can employer send employees on garden leave?**
- If an employee qualifies as a "risk factor" based on the criteria set out in the response to question no. 1, the employer is obliged to lock out the employee.
  - **For Moscow:** Employers operating in Moscow must suspend employees from the workplace if they have elevated temperature. employers must ensure self-isolation of employees who returned from states which display possible "unfavorable" signs of COVID-19.
7. **When is the employer forced to shut down its operations?**
- There are no specific requirements regarding the employer's obligation to shut down its operations. However, the employer may suspend work due to economic, technological, technical or organizational causes.
8. **Does the employer have the obligation to report infections occurring in the business to the health authorities?**
- For Moscow:** Upon receipt of a request from the Russian Federal Service for Consumer Rights and Human Welfare Protection ("Rospotrebnadzor") employers operating in Moscow must immediately provide information on all work contacts of employees suffering from COVID-19.



# Russia

**9. Can the employer request an employee to see a doctor?**

- The employer can request only certain categories of employees to undergo mandatory preliminary and periodic medical examinations. In other cases, the employer can only recommend that employees see a doctor but employees are not obliged to undergo such medical examination.
- For Moscow: Employees must seek medical help at home without going to any medical institutions if they have respiratory symptoms.

**10. If employees are sent on garden leave or refuse to come to work or if an operation is being shut down, do the employees still need to be paid?**

In case of a legitimate lock out, suspension from working place or shut down, employees would need to be paid.

**11. If kindergartens and schools are being closed and employees need to stay home and cannot work, does the employer need to pay them and - if so - for how long?**

In the absence of statutes providing otherwise, no. Under current rules and practices, such situations are considered valid grounds for employees to request additional unpaid leaves, or to urgently use their annual paid leave entitlement, rather than to claim compensation.



# Saudi Arabia

- 1. Are employees obliged to disclose themselves as a "risk-factor" to the employer?**

  - No, although employees with a confirmed infection or suspicious symptoms should disclose this to the employer, visit the nearest hospital or call 937 (The Ministry of Health's 937 Service Center).
  - Individuals who have visited any high risk countries recently, especially in the last 14 days, should disclosure this to the authorities.
- 2. Can the employer demand employees to disclose themselves as being a "risk-factor"?**

The employer cannot demand, but it can ask an employee whether he has visited any high risk countries and ask the employee to self-isolate and work from home.
- 3. Can the employer issue an instruction (or a policy) requiring employees to report co-workers with flu symptoms (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness) to the employer?**

  - Given the circumstances, the employer could ask employees to report co-workers.
  - The employer could introduce a policy containing general guidelines on measures that should be taken in case of certain situations, such as flu symptoms, travel to certain countries and illness.
- 4. Can employees refuse to come to work?**

  - Not unless instructed by the authorities.
  - employees can refuse to come to work if:
    - i. they have a medical report to say they are ill (generally ill not necessarily infected by Coronavirus); or
    - ii. there is a confirmed Coronavirus infection in the workplace.
- 5. Can employees refuse to attend meetings or to travel?**

  - Not unless the travel is to a high risk country (including but not limited to China, Korea, Iran, Singapore, Hong Kong, Malaysia, Macau, Italy, Thailand, Indonesia, etc.).
  - employer could recommend meetings be held by teleconference instead of in person.
- 6. Can the employer send employees on suspension from work?**

Yes, an employer can send employees home from work but it cannot suspend their employment or employment contract and must continue to pay their wages during such suspension.



# Saudi Arabia

- |   |   |
|---|---|
| <b>7. When is the employer forced to shut down its operations?</b>  | <ul style="list-style-type: none"><li>■ The employer is obliged to impose business restrictions or to close down the business premises in case of a respective instruction by authorities.</li><li>■ In any case, the employer may decide to shut down operations where the continuation of the business would lead to a particularly high infection risk.</li></ul>  |
| <b>8. Does the employer have the obligation to report infections occurring in the business to the health authorities?</b>   | <ul style="list-style-type: none"><li>■ We are not aware of an obligation to report infections.</li><li>■ However, in practice, given the circumstances, it is recommended that the employer reports situations to the local health authorities.</li></ul>  |
| <b>9. Can the employer require an employee to see a doctor?</b>   | <ul style="list-style-type: none"><li>■ Yes, the employer can request the employee see a doctor / undergo medical examinations to ensure he is free from diseases.</li><li>■ An employer could ask the employee to work from home, assuming the nature of the employee's job permits.</li></ul>   |
| <b>10. If employees are sent on suspension from work, or refuse to come to work or if an operation is being shut down, do the employees still need to be paid?</b>      | <ul style="list-style-type: none"><li>■ Yes, if the employee is sent home from work, refuses to come to work because he is sick and can prove it with a medical report or if an operation is being shut down, then the employer must continue to pay the employee's wages.</li><li>■ If, however, the employee refuses to come to work without a valid reason for more than 30 days in one contractual year or more than 15 consecutive days, the employer can terminate the employee without notice or an end of service award, provided that he gives the worker a chance to state his reasons for objecting to the termination and the termination was preceded by a written warning from the employer if the employee was absent for more than 20 days in the first case or more than 10 days in the second case.</li></ul> |
| <b>11. If kindergardens and schools are being closed and employees need to stay home and cannot work, does the employer need to pay them and - if so - for how long</b> | <ul style="list-style-type: none"><li>■ Unless the employer agrees otherwise, this would be considered part of the employee's annual leave.</li><li>■ Otherwise, an employee, subject to the employer's approval, may obtain leave without pay for a duration to be agreed upon by the two parties. The work contract shall be deemed suspended for the duration of the leave in excess of 20 days, unless both parties agree otherwise.</li><li>■ If the leave is unauthorized, see response to question no. 10 above.</li></ul>   |





# South Africa

- 1. Are employees obliged to disclose themselves as a "risk-factor" to the employer?**

  - South African law does not place an obligation on employees to disclose their medical information or status. However an employer has an obligation to provide a safe working environment. Given the circumstances around the Coronavirus if an employer instructs their employees to inform the employer if they are a "risk-factor", then the employee will be obliged to disclose this to their employer.
  - If the employee fails to comply, it may be possible that the employee can be held liable for misconduct. However, this will depend on the circumstances of each case.
- 2. Can the employer demand employees to disclose themselves as being a "risk-factor"?**

Yes please see our responses in question no. 1.
- 3. Can the employer issue an instruction (or a policy) requiring employees to report co-workers with flu symptoms (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness) to the employer?**

Yes. As stated in question no. 1, an employer has an obligation to provide a safe working environment. Therefore, an employer can implement reasonable steps to ensure that they comply with their obligation. We are of the view that these are reasonable instructions given the outbreak of the Coronavirus.
- 4. Can employees refuse to come to work?**

  - Generally no. However, employees can refuse to come to work if there is a reasonable risk on their life or health. Specifically with the Coronavirus, an employee can refuse to come to work if:
    - i. there is a confirmed infection in the workplace and
    - ii. if the employee's place of work is in close proximity to where the infected employee was located (i.e., same open space office),
    - iii. the employer cannot reassign the employee to a no-risk environment at the workplace
- 5. Can employees refuse to attend meetings or to travel?**

Yes, an employee may refuse to attend a meeting or to travel if there is a high risk that such meeting or travel will endanger the health of the employee. This will be assumed if an employee is travelling or attending a meeting in a high risk area. The Department of Health has advised against non-essential travel to the Hubei Province, China (see: [Department Of Health - Travel advice for South Africans travelling to affected countries](#))



# South Africa

6. **Can the employer send employees on suspension from work?**
- The employer may have a contractual right to ask employees to work from home or not to attend work at any point during their employment. This will depend on the wording of the employment contracts.
  - If the employer does not have a contractual right, given the employer's obligation to provide a safe working environment, it may be reasonable to instruct employees to work from home if they can do their job remotely and if not, to ask them not to attend work.
  - However, as employees have a right to fair labour practices, an employer must consider whether the instruction to work from home may affect other rights or benefits and, if so, what reasonable accommodation the employer could make to limit the potential prejudice to staff.
7. **When is the employer forced to shut down its operations?**
- The law does not set a threshold for when operations must be shut down. In the circumstances surrounding the Coronavirus, it is advisable to shut down operations if continued operations would pose a significant risk to the health and life of the workforce.
8. **Does the employer have the obligation to report infections occurring in the business to the health authorities?**
- No, only medical staff and doctors who become aware of an infection are required to report to the health authorities.
9. **Can the employer require an employee to see a doctor?**
- Yes. Medical testing is prohibited, unless inter alia it is justifiable in the light of the medical facts. The Coronavirus endemic should meet this test. employers may require staff to produce a medical certificate confirming that the employee does not have the Coronavirus and that the employee is fit to work.
10. **If employees are sent on suspension from work, or refuse to come to work or if an operation is being shut down, do the employees still need to be paid?**
- Yes.
- In case of a legitimate suspension or shut down (based on the requirements stipulated in these FAQ), the employee would need to be paid. An employer would also need to consider how this may affect other rights or benefits and, if so, what reasonable accommodation the employer could make to limit the potential prejudice to staff.
  - The employees would also be required to take all reasonable steps to work from home (if it is possible to work from home).
11. **If kindergartens and schools are being closed and employees need to stay home and cannot work, does the employer need to pay them and - if so - for how long**
- If the employee just needs to stay from home, and not work in order to look after a child, then the employee would have to apply for annual leave or enter into an alternative arrangement with the employer. The annual leave period will depend on the terms of employment (annual leave is granted at the employer's discretion).
  - However, if the employee needs to stay home and cannot work because they need to take care of an ill child, the employee is entitled to paid family responsibility leave (3 days per annual leave cycle).



# Spain

- 1. Are employees obliged to disclose themselves as a "risk-factor" to the employer?**

  - Employees with a confirmed infection need to disclose the same to their contractual employer ("employer").
  - Employees with flu symptoms who
    - i. visited or
    - ii. had contact with individuals from **areas with presumed community transmission of COVID-19** (e.g., China, Spain (**only Madrid, Vitoria and Labastida**), Italy, North or South Korea, Japan, Singapore, Hong Kong and Iran) within the past 3 weeks need to disclose this circumstance.
  - Even without flu **symptoms** (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness), employees who
    - i. have an individual with a confirmed infection in their household or
    - ii. visited an event, which later became known to be a venue from which the disease spread, need to disclose this circumstance to their employer.
- 2. Can the employer demand employees (in reaction to the corresponding question) to disclose themselves as being a "risk-factor" as per question no. 1?**

The employer's right to ask certain questions has as counterpart the employees' obligation to disclose the corresponding information, i.e., the employer has the right to ask for the circumstances specified as per question no. 1 and the employee has to provide the corresponding and truthful answer.
- 3. Can the employer issue an instruction (or a policy) requiring employees to report co-workers with flu symptoms (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness) to the employer?**

Yes, but this is a significant intrusion on privacy in a sensitive area. In this respect, it is important that the processing of personal data complies with all the general data protection principles set forth in Article 5 GDPR (purpose limitation, proportionality, data minimization, storage limitation, integrity and confidentiality)

For reasons of proportionality at least the following precautions should be taken:

  - i. **Limit geographic scope:** The reporting possibility should only be offered if:
    - a) For sites located in **areas with presumed community transmission of COVID-19** or
    - b) For sites in which an employee was diagnosed positively with a Coronavirus infection;
  - ii. **Offer don't oblige to report:** The reporting possibility should be phrased as an invitation to report, rather than as an obligation to report;
  - iii. **Keep reports within the employer:** The reporting channel should be limited to the employer (i.e., the contractual employer and not to anyone else in the group of companies and not to third parties) and within such employer to a narrowly defined group of recipients (e.g., the Coronavirus crisis team);



# Spain

**3. Can the employer issue an instruction (or a policy) requiring employees to report co-workers with flu symptoms (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness) to the employer?**

- iv. Limit reportable content:** It should be made clear that
- a) the reporting channel must only be used with regard to the fact that symptoms exist and not for reporting an individual's specific symptoms and
  - b) The reportable symptoms are limited to the publicly known and acknowledged list of **symptoms** (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness);
- v. Separate reports from other employee data:** The information reported through the reporting channel should be recorded separately, not be included in the employee's personnel file and should be deleted according to GDPR storage limitation principle (no specific period);
- vi. Create transparency:** A transparent notice, containing information according to [Art. 13 GDPR](#), needs to be issued to all employees (including contingency workers) before the reporting line is opened, especially as regards the points mentioned herein, but also as regards the steps envisaged by the employer upon having received a report);
- vii. Inform data subjects:** The employee concerned by a report has to be notified as soon as possible;
- viii. Decide how to treat the reporters:** there is no obligation to protect the identity of the reporter but we recommend to keep them anonymous at least during the first stages of the investigation.

**4. Can employees refuse to come to work?**

- Employees can only refuse to come to work if their health conditions put them at risk and has communicated this to the company so that it can take appropriate preventive measures.
- Companies must ensure compliance with data privacy regulations since the company would be processing very sensitive personal data.

**5. Can employees refuse to attend meetings or to travel?**

- Only if the meeting takes place in a region officially recognized by authorities as being a crisis-region or if attendees visiting from crisis-regions would attend. Madrid, Vitoria and Labastida (Basque country, in the north of Spain) have been declared as crisis-regions by the Spanish Health Minister although it has not restricted yet circulation in these areas. Currently, according to the recommendations issued by the Government of Madrid, unnecessary meetings should be avoided. The Health Ministry encourages companies to work on shifts when possible to avoid concentration of people. In fact, the Government of Madrid encourages companies to use video conferences. Therefore, it is be advisable to avoid physical meetings to the extent possible.
- As for travels, the Government of Madrid has just announced specific measures to control the virus and it strongly recommends to avoid all unnecessary travels (it does not refer to any specific destination). The Health Ministry also recommends to avoid travelling and this applies to all Spanish territory. From a health and safety perspective, it is advisable to avoid unnecessary travels. If a business trip abroad is essential, it will be necessary to take all measures to protect the employees' health and safety.



# Spain

6. **Can the employer send employees on suspension from work?**
- a. Employees with a confirmed infections or employees who had contact with an individual with a confirmed infection and the health services have ordered the employee to be quarantined until they confirm whether the/she is infected or not the employee will be on sickness absence, exempted from work and receiving a sick leave allowance from the Social Security. The company may be obliged to complement the sick leave allowance under the employment contract or the collective bargaining agreement.
  - b. For other cases, in order to avoid a potential viral spread in the workplace, companies may wish to require employees to work from home. Companies will be able to do this if they have objective knowledge, or a reasonably held belief, that an employee has either contracted or been exposed to the Coronavirus (for example, is exhibiting symptoms or recently travelled to an area cautioned by health authorities). In these circumstances, there may exist a bona fide occupational requirement to protect the health and safety of others in the workplace, thereby justifying the requirement to stay home.
  - c. In fact, the Government of Madrid has announced today specific measures to contain the Coronavirus (including interruption of learning activity in kindergartners, schools and universities from 11-25 March 2020 11 to March 25), recommending companies to establish homebased work if possible. The Government of Madrid has also requested companies to update their contingencies plan for emergency situations. It also encourages companies to facilitate flexible working time arrangements to ensure work-life balance under these circumstances and the use of use of video conferencing for meetings.
  - d. Finally, the Government of Madrid request employees with flu symptoms to stay at home. The Government of Vitoria (Basque Country, in the north of Spain) also encourages that employees work from home in Vitoria and Labastida. If working from home is not possible, the company may send employees on suspension from work (during which the employees will continue receiving salary and benefits). As a general rule, this requires the employee's consent but the legal risks associated with requiring employees to stay home /work from home is low in these circumstances so long as the leave / work from home duration is reasonable having regard to the safety and health of the employees.
- 
7. **When is the employer forced to shut down its operations?**
- Only if there is evidence that the place of work is an "out of control crisis venue" and working from home is not possible.
  - A temporary shut down due to force majeure requires authorization from the Labor Authorities.
- 
8. **Does the employer have the obligation to report infections occurring in the business to the health authorities?**
- No, there is no specific obligation to report Coronavirus infections for the moment.





# Spain

## 9. Can the employer require an employee to see a doctor?

The general rule is that companies can only recommend the employees to see a doctor. However, it may be possible to request to see a doctor to check whether the employee's health status could be a danger to him/herself or other employees / third parties.

## 10. If employees are sent on suspension from work, or refuse to come to work or if an operation is being shut down, do the employees still need to be paid?

There are different scenarios:

- a) Temporary shut down due to force majeure (e.g., huge number of employees infected): The company must request authorization from the labor authorities to do it. During the temporary shutdown, employees will receive the employment allowance from the unemployment office. The company must continue paying the social security contributions but not the salary.
- b) Temporary shut down due to objective reasons (e.g., productive reasons if the company is out of stock): The company must enter into a consultation with the employees' representatives. During the temporary shutdown, employees will receive the employment allowance from the unemployment office. The company must continue paying the social security contributions but not the salary.
- c) If employees refuse to work and their health conditions do not put them at risk, this could be considered a labor infringement and the company may suspend him/her from work and salary (according to the rules of the Collective bargaining agreement. However, this would depend on the specific circumstances.
- d) If the company decides to send employees on leave, employees are entitled to receive salary and benefits during the same.
- e) Employees with a confirmed infection or employees quarantined by Health Services because they are under investigation until they confirm whether the/she is infected or not the employee will be on sickness absence (according to the criteria of the Health Services), exempted from work and receiving a sick leave allowance from the Social Security. The company may be obliged to complement the sick leave allowance under the employment contract or the collective bargaining agreement.



# Spain

## 11. Can the employer require an employee to see a doctor?

- No, the employer is not required to pay them. However, if the employee is unable to work due to children care circumstances, they can request the company:
  - (i) to work from home or to adapt their working time (the company will then analyze if this is possible or not);
  - (ii) a reduction of working time / salary for children care if the children are less than 12 years old,
  - (iii) an unpaid leave of absence or
  - (iv) a paid leave of absence (but the employer must agree on this). The applicable Collective Bargaining Agreement needs to be checked since it may establish days off for personal issues (although this tends to be only 2-4 days maximum) or any additional leaves or flexibility arrangements.
- The Government of Madrid has announced on 9 March 2020 that the learning activity ceases at kindergartens, schools and universities from 10-24 March 2020. It also encourages companies to facilitate flexible working time arrangement to ensure work-life balance under these circumstances and the use of video conferencing for meetings. The Government of Vitoria (Basque Country, in the north of Spain) has also announced that the learning activity in schools and university will cease in Vitoria and Labastiada in the same dates (11-25 March 2020) and also encourages that employees work from home.



# Sweden

- 1. Are employees obliged to disclose themselves as a "risk-factor" to the employer?**

Employees who have a confirmed COVID-19 infection or have a reason to suspect that they have an infection are legally obliged to disclose the same to their employer.
- 2. Can the employer demand employees (in reaction to the corresponding question) to disclose themselves as being a "risk-factor" as per question no. 1?**

The employer can demand employees who have COVID-19 or have a reason to suspect that they have an infection to disclose themselves.

In the context of a major outbreak of COVID-19 in Sweden, it is likely to be considered proportionate for the employer to ask:

  - a) employees with symptoms associated with COVID-19 infection, who have visited or had contact with individuals who have visited areas with presumed community transmission of COVID-19 (e.g., China, Italy, South Korea, Japan, Singapore, Hong Kong and Iran) within the past 3 weeks; and
  - b) employees without such flu symptoms but who have an individual with confirmed COVID-19 infection among their immediate family members or who have visited an event, which later became known to be a venue from which the disease spread, to disclose this circumstance to their employer.
- 3. Can the employer issue an instruction (or a policy) requiring employees to report co-workers with flu symptoms (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness) to the employer?**

Generally, no.

  - This is a significant intrusion on privacy in a sensitive area. However, in the context of a major outbreak of COVID-19 in Sweden, the employer can encourage employees to report co-workers with COVID-19 symptoms to the employer, e.g., if another employee in the workplace is confirmed to have COVID-19 and has not disclosed this to the employer and does follow self-isolation advice. Any such policy in those circumstances would require a clear reporting channel with limited access to the reported data, and clear/limited retention periods.
  - Even though not a privacy compliance issue, please note that if the employer is bound by a CBA, the unions shall be consulted with regard to the technical system used to implement the reporting line and the reporting requirements.
- 4. Can employees refuse to come to work?**

Generally, no.

  - However, the employees can refuse to come to work if the company's health and safety officer (*Sw. skyddsombud*) has made a decision to close down the workplace due to there being an immediate and serious risk for the employees' life or health.
  - Please note that some groups of employees, such as pregnant women, those with compromised immune systems and those identified by WHO as having a higher risk of developing severe COVID-19 may have good reason for their refusal, and obligations under work environment legislation should be carefully observed in relation to those higher risk groups.
  - Practically, the employee may have a job which can be done from home and a solution would be to instruct them to do so. If they are not able to do so, the employer may be able to agree that they take holiday or agree a period of unpaid leave.



# Sweden

5. **Can employees refuse to attend meetings or to travel?**
- Generally, no, if this is required as part of their duties.
- The employer should discuss refusal with the employee, but if there are no special concerns, the employee would be in breach of an instruction to travel.
  - If the meeting takes place in a region officially recognized by the Swedish Ministry for Foreign Affairs as being a crisis-region and where travelling is not recommended (for information see <http://www.regeringen.se/uds-reseinformation>), employees can refuse to attend. Same rule applies for business travel.
  - All employers should assess whether travel to affected areas is essential. employers should avoid sending those at higher risk of serious illness to any area where the virus is spreading. Risk assessments should be carried out.
- 
6. **Can employer send employees on garden leave?**
- Yes, if an employee qualifies as a "risk factor", the employer may temporarily relieve the employee from the obligation to work and require them stay away from the workplace.
  - The employer may also require the employees to work from the home office, unless they are sick, to the extent working from home is possible.
- 
7. **When is the employer forced to shut down its operations?**
- If the company's health and safety officer has made a decision to close down the workplace due to there being an immediate and serious risk for the employees' life or health, or if the employer deems that the place of work is an "out of control crisis venue".
- 
8. **Does the employer have the obligation to report infections occurring in the business to the health authorities?**
- No, only medical staff and doctors who become aware of an infection are required to report to the county medical officer for infectious diseases (*Sw. smittskyddsläkare*).
- 
9. **Can the employer request an employee to see a doctor?**
- Yes, if the employer has a reasonable suspicion that the employee has COVID-19 infection.
- 
10. **If employees are sent on garden leave or refuse to come to work or if an operation is being shut down, do the employees still need to be paid?**
- Whether the employee is entitled to be paid will depend on the reason why they are not working:
- If an employee is displaying symptoms or has been confirmed with COVID-19 infection, they are treated as being on sick leave and will be entitled to sick pay in accordance with the Swedish rules on sick pay.
  - If an employee has been relieved from the obligation to work and asked not to attend the work place and they do not have a job that can be done remotely, or if an operation is being shut down, the employees are entitled to be paid as usual.
  - An employee who refuses to come to work without good reason would not be entitled to pay.



## Sweden

11. **If kindergartens and schools are being closed and employees need to stay home and cannot work, does the employer need to pay them and - if so - for how long?**

No, the employer would not be obliged to continue to pay salary if the employee stays home and cannot work. However, the employer may allow the employee to work from home if their job is one that can be done remotely.





# Switzerland

- 1. Are employees obliged to disclose themselves as a "risk-factor" to the employer?**

Employees with a confirmed infection need to disclose the same to their contractual employer ("employer").
- 2. Can the employer demand employees to disclose themselves as being a "risk-factor"?**

Yes, as long as the questions are necessary for the employer to assess the appropriate measures to protect its other employees and provided that the question is proportionate in light of the information that the employee needs to disclose.
- 3. Can the employer issue an instruction (or a policy) requiring employees to report co-workers with flu symptoms (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness) to the employer?**

Yes, but this is a significant intrusion on privacy in a sensitive area. For reasons of proportionality at least the following precautions should be taken:

  - i. Offer, don't oblige to report:** The reporting possibility should be phrased as an invitation to report, rather than as an obligation to report (under Swiss law it is very questionable whether a reporting obligation can be created unilaterally by means of an instruction);
  - ii. Keep reports within the employer:** The reporting channel should be limited to the employer (i.e., the contractual employer and not to anyone else in the group of companies and not to third parties) and within such employer to a narrowly defined group of recipients (e.g., the Coronavirus crisis team);
  - iii. Limit reportable content:** It should be made clear that
    - a)** the reporting channel must only be used with regard to the fact that symptoms exist and not for reporting an individual's specific symptoms and
    - b)** The reportable symptoms are limited to the publicly known and acknowledged list of symptoms (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness);
  - iv. Separate reports from other employee data:** The information reported through the reporting channel should be recorded separately, not be included in the employee's personnel file and should be deleted 5 weeks after recording;
  - v. Create transparency:** A transparent notice needs to be issued to all employees (including contingency workers) before the reporting line is opened, especially as regards the points mentioned herein, but also as regards the steps envisaged by the employer upon having received a report;
  - vi. Inform data subjects:** The employee concerned by a report has to be notified as soon as possible;
  - vii. Decide how to treat the reporters:** There is a considerable risk that the data subject (i.e., the reported subject) has the right to learn who reported them.



# Switzerland

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|---|---|
| 4. Can employees refuse to come to work?  | No, unless the employees would violate the law by doing so (in particular a measure imposed by the authorities). Depending on the circumstances, employees might also be able to refuse work if the employer failed to take the appropriate protective measures (e.g., if the employee is supposed to work next to an employee who is infected).  |
| 5. Can employees refuse to attend meetings or to travel?  | <ul style="list-style-type: none"><li>■ Only if an individual who is infected attends the meeting. However, even in that instance a case by case analysis will be required. The same is true for employees who belong to a risk group.</li><li>■ Same rule applies for business travel.</li></ul>   |
| 6. Can the employer send employees on suspension from work?   | <ul style="list-style-type: none"><li>■ Yes but full salary will basically be due.</li><li>■ If the job allows, the employer would generally also be able to order the employee to work from home.</li></ul>  |
| 7. When is the employer forced to shut down its operations?   | The employer is only forced to shut down its operations if the authorities so require.  |
| 8. Does the employer have the obligation to report infections occurring in the business to the health authorities?  | No.   |
| 9. Can the employer require an employee to see a doctor?  | Yes but at the employer's costs. However, the employer cannot request that the doctor tests whether the employee is infected. Furthermore, the doctor may only inform the employer whether the employee is able to work.  |
| 10. If employees are sent on suspension from work, or refuse to come to work or if an operation is being shut down, do the employees still need to be paid? | <ul style="list-style-type: none"><li>■ If employees refuse to come to work or are sent home because they travelled to an area in violation of a governmental order or if, due to a governmental order, they are unable to come to work, they are not entitled to any salary pay.</li><li>■ If, however, the employer suspended them for other reasons, salary is generally due. The State Secretariat for Economic Affairs (SECO) takes the (non-binding) view that COVID-19 represents a business risk and that salary must be paid even if the employees cannot work due to a business closure based on the orders issued by public authorities.</li><li>■ The employer will also have to analyze whether the conditions for short term work are fulfilled. If the application for short term work is approved, the unemployment insurance will pay short work benefits in relation to the reduced hours worked and thus significantly reduce the employer's salary costs.</li></ul> |



# Switzerland

**11. If kindergartens and schools are being closed and employees need to stay home and cannot work, does the employer need to pay them and - if so - for how long**

- If employees need to stay home because they have to take care of children, the employer has to continue to pay the salary for as long as the employee is entitled to sick pay. This entitlement accrues anew in every year of service and varies primarily based on the employee's year of service.
- If the employee needs to stay at home because the employer does not want the employee to come to work to avoid any infection risk for the remaining employees (e.g., because the school was closed because a scholar was infected) the salary has to be paid for as long as the employee is asked to stay at home.



# Turkey

- 1. Are employees obliged to disclose themselves as a "risk-factor" to the employer?**

Yes. employees have a duty of loyalty towards their employer. Furthermore, employees are obliged to refrain from causing any harm to the safety of other employees and to cooperate with the employer in order to ensure occupational health and safety in the workplace. Therefore, Employees with a confirmed infection or suspicious symptoms must disclose these to the employer.

  - However, employers should clearly define when employees are a "risk-factor" and communicate this definition to their employees.
- 2. Can the employer demand employees (in reaction to the corresponding question) to disclose themselves as being a "risk-factor" as per question no. 1?**

  - Since the employer has an obligation to ensure a safe and healthy workplace and protect its employees, it is recommended that it ask employees to disclose such information.
  - However, employers should clearly define when employees are a "risk-factor" and communicate this definition to their employees.
- 3. Can the employer issue an instruction (or a policy) requiring employees to report co-workers with flu symptoms (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness) to the employer?**

  - No, for data privacy reasons, this would not be recommended.
  - However, given the extraordinary circumstances, the employer's general obligation to ensure health and safety in the workplace, and the employees' obligation to refrain from causing any damage to the safety of other employees, we believe that employees could be invited to raise any health and safety concerns they may have in the workplace.
  - Given the fact that such practice might also constitute an intrusion of privacy, employees should report their concerns in a discreet manner. employees should also be reminded that everyone should take all possible measures to protect their own health and that of others.
- 4. Can employees refuse to come to work?**

  - In principle, employees are required to perform their work as agreed upon with the employer. Only in very exceptional situations, it is possible to derogate from the agreed upon work.
  - Indeed, if a grave and imminent danger arises in the workplace (e.g., there is a confirmed Coronavirus (COVID-19) infection in the workplace), employees can request that the employer discern and remedy the danger. employees can cease working until the danger is eradicated; employers must continue to pay salaries even if work is halted.
- 5. Can employees refuse to attend meetings or to travel?**

If meetings or travels are located in one of the regions that are considered unsafe or if there is a grave and imminent danger in the respective region/destination, employees may refuse to attend meetings or to travel.



# Turkey

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|-----|--|--|
| 6.  | <b>Can the employer send employees on leave/ suspension from work?</b>   | Yes, an employer can in any case unilaterally release an employee from their duties. The employee's entitlement to continued remuneration remains in force during such leave of absence. While on leave, the employee is required to remain available for work.  |
| 7.  | <b>When is the employer forced to shut down its operations?</b>  | Workplace activities must be halted when a life-threatening workplace condition has been detected and until this life-threatening workplace condition is remedied. Depending on the specifics of the case, i.e., the degree of hazard to employees and life-threatening risks, workplace activities must be halted partially or fully.   |
| 8.  | <b>Does the employer have the obligation to report infections occurring in the business to the health authorities?</b>   | No, only medical staff and doctors who become aware of an infection are required to report the infection to the health authorities. However, it is an employer's general obligation to monitor, evaluate and take action if there is any suspicion of contamination in the workplace. Therefore, if an employer believes that there is a risk of contamination, we recommend that the employer contact the health authorities or the workplace doctor immediately. |
| 9.  | <b>Can the employer request an employee to see a doctor?</b>   | <ul style="list-style-type: none"><li>■ No, employers cannot force an employee to undergo a medical examination. employers can only recommend their employees to see a doctor. If the employee refuses, the employer can send the employee on paid leave.</li><li>■ Depending on the employee's employment contract and work activities, working remotely could be a suitable alternative.</li></ul>   |
| 10. | <b>If employees are sent on leave / suspension from work, or refuse to come to work or if an operation is being shut down, do the employees still need to be paid?</b> | Yes, employees still need to be paid if they are suspended from work, refuse to come to work or if an operation is being shut down.  |
| 11. | <b>If kindergartens and schools are being closed and employees need to stay home and cannot work, does the employer need to pay them and - if so - for how long?</b>   | There is no clear guidance on this topic. We believe that in such a case, provided that the employees' workplace is not shut down due to such measure, employees can request to use their annual paid leave days in order to stay home and not work.   |





UK

- 1. Are employees obliged to disclose themselves as a "risk-factor" to the employer?**

Yes.

  - Employees may be a risk factor because they have been in contact with a confirmed case, or because they have visited a high risk area.
  - In either case, our view is an employee is under an express and implied duty to tell their employer.
  - Employees should tell their employer if they are unable to work whether because of sickness or advice to self-isolate, or because they are in quarantine, according to the employer's usual absence procedures.
  - Practically, to ensure employees understand their reporting obligations, employers should develop a clearly communicated policy on what and when an employee is expected to inform their employer of risk factors.
- 2. Can the employer demand employees to disclose themselves as being a "risk-factor"?**

Yes.

  - There is no strict legal obligation on employers to demand this information but an employer has a duty of care to their workforce under the Health and Safety at Work Act 1974 and must take reasonable precautions to protect the health and safety of employees. Therefore asking this information is prudent.
  - It would be a reasonable instruction to ask an employee to disclose any relevant information and employers should carry out a risk assessment if they become aware that an employee has been in close contact with a confirmed case or has visited a high risk area.
- 3. Can the employer issue an instruction (or a policy) requiring employees to report co-workers with flu symptoms (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness) to the employer?**

Generally, no.

  - However, asking employees to report may be a justified intrusion on privacy if the situation worsens. For example, if another employee in the workplace is confirmed to have COVID-19 and has not followed self-isolation advice. Any such policy in those circumstances would require a clear reporting channel with limited access to the reported data, and clear/limited retention periods.



UK

**4. Can employees refuse to come to work?**

Generally, no.

- However, the obligation employers have to preserve trust and confidence in the employment relationship which means that employers should speak to employees to understand the reason for their refusal and whether they have genuine concerns.
- Some groups of employees such as pregnant women, those with compromised immune systems and those identified by WHO as having a higher risk of developing severe COVID-19 may have good reason for their refusal, and obligations under discrimination and health and safety law should be carefully observed in relation to those higher risk groups.
- Practically, the employee may have a job which can be done from home and a solution would be to instruct them to do so. If they are not able to do so, you may be able to agree that they take holiday. In certain circumstances, an employer can require an employee to take holiday. Alternatively, the parties could agree on a period of unpaid leave.
- However, if it is not possible to reach a satisfactory solution with an employee who is not at high risk, the employer may choose to begin disciplinary proceedings against the employee. In the current climate, we think it quite unlikely that employers would take this step given the PR / ER implications. However, as the situation develops, and if many employees are perceived as using COVID-19 as an 'excuse' not to attend work but to request payment, a more assertive approach to managing refusals to work may be required.

**5. Can employees refuse to attend meetings or to travel?**

Generally no, if this is required as part of their duties.

- However, please note our general comments to question no. 4 above and the need to preserve the relationship of trust and confidence.
- All employers should assess whether travel to affected areas is essential. employers should avoid sending those at higher risk of serious illness to any area where the virus is spreading. Risk assessments should be carried out.
- Employer should discuss refusal with the employee, but if there are no special concerns, the employee would be in breach of a lawful instruction not to travel.



UK

6. **Can the employer send employees on suspension from work?**
- Employers may have a contractual right to ask employees to work from home or not to attend work at any point during their employment. This will depend on the wording of their contract.
  - Even if they do not, it may be a reasonable instruction based on a risk assessment in the current circumstances to either instruct their employees to work from home if they have a job that can be done remotely and if not, to ask them not to attend work.
  - It would usually be expected that an employee who has been told not to work by their employer but are otherwise able and willing to do so would receive their usual pay and benefits. For information on paying other categories of employees, please see question no. 10 below.
- 
7. **When is the employer forced to shut down its operations?**
- The UK government does not advise automatic closure even if a case has been confirmed in the workplace.
  - In this situation, Public Health England's local health protection team will contact management to advise on next steps.
  - Employees do not generally have a right to strike - and therefore could not force closure of a site/operations. A recognized trade union could call a ballot over health and safety concerns which could, if members were in favour, result in a strike on notice. However, this would take some time in order to complete the necessary balloting formalities (unless it was a "wildcat" action).
- 
8. **Does the employer have the obligation to report infections occurring in the business to the health authorities?**
- No
- 
9. **Can the employer require an employee to see a doctor?**
- Yes, an employer can generally require an employee to seek medical advice from NHS 111 if there are risk factors. [Note the UK government is advising people with suspected COVID-19 not to seek in-person medical support in the first instance but instead to call NHS 111.]
- The employer may have a contractual right to ask the employee to see the company's medical adviser but cannot force the employee to do so.
  - It would not be advisable to send an employee with symptoms to any doctor or medical centre; they should be advised to call NHS 111.
  - It would be a reasonable instruction for an employer to require an employee to seek advice from NHS 111 if there are risk-factors present.



UK

**10. If employees are sent on suspension from work, or refuse to come to work or if an operation is being shut down, do the employees still need to be paid?**

Whether the employee is entitled to be paid will depend on the reason why they are not working:

- Wherever possible, where risk factors are present, or an employee is awaiting the outcome of a test for COVID-19, but is otherwise able to work, employers may instruct employees to work from home.
- If an employee is displaying symptoms, they can be treated as being on sick leave and will be entitled to sick pay according to the employer's usual policy.
- If the employee has been asked not to attend work by the employer and they do not have a job that can be done remotely, they are entitled to be paid their usual salary.
- If a doctor or NHS 111 advises an employee or worker to self-isolate the legal position is not completely clear but the government has advised they should receive statutory sick pay and that it is good practice to pay them sick pay under their contract / company policy (which may be more than statutory sick pay).
- The government has announced that an employee who is entitled to statutory sick pay because they are in self-isolation would be entitled to pay from day one of their absence, rather than day four (the usual rule).
- An employee who refuses to come to work without good reason would not be entitled to pay.
- An employee who deliberately visits a high risk area with the intention that they will then be told to isolate or put in quarantine should be warned that if they do go and do not have a job that can be done remotely, they will not receive any pay (other than statutory sick pay) for the period that they are unable to work due to quarantine/self-isolation or inability to return to the UK. They will receive holiday pay for their booked period. The employer may require them to take holiday for the additional period they are unable to work if they have sufficient untaken annual leave, or it will be unpaid (save for statutory sick pay). If an employer intends to take this approach it should issue a clear policy of its position on pay in these situations.

**11. If kindergartens and schools are being closed and employees need to stay home and cannot work, does the employer need to pay them and - if so - for how long?**

- The employer may allow the employee to work from home if their job is one that can be done remotely.
- Employees have the right to take a reasonable amount of unpaid dependent's leave if necessary to care for children or make arrangements for their care. They may also be able to take unpaid parental leave for up to four weeks per year per child, or ask to take annual leave. employer are not obliged to grant additional paid time off in these circumstances, but if an employer chooses to do so this must be done fairly and in a non-discriminatory way.



# Ukraine

- 1. Are employees obliged to disclose themselves as a "risk-factor" to the employer?**

  - The employer cannot oblige the employees to proactively disclose that they may be a "risk-factor" (have symptoms or returned recently from the affected area). However, employees are free to (and should) disclose such information on their own.
  - The above is also in line with the recommendations of Centers for Disease Control and Prevention (CDC) recently published on the web-site of the Ministry of Health of Ukraine (the [CDC Recommendations](#)). According to the CDC Recommendations, "risk-factor" employees should (i) notify their supervisor of having the symptoms of acute respiratory illness and (ii) stay home if they are sick.
- 2. Can the employer demand employees (in reaction to the corresponding question) to disclose themselves as being a "risk-factor" as per question no. 1?**

  - Although there is no such express right of the employer, it might be possible for the employer to demand employees to disclose themselves as being a "risk-factor" due to legitimate interest of the employer (statutory obligation to ensure health and safety at the workplace).
  - According to the CDC Recommendations, the employees who appear to have acute respiratory illness symptoms (i.e., cough, shortness of breath) upon arrival to work or become sick during the day should be separated from other employees and be sent home immediately. For such purpose, the employer can demand employees to disclose themselves as being a "risk-factor".
- 3. Can the employer issue an instruction (or a policy) requiring employees to report co-workers with flu symptoms (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness) to the employer?**

  - Given the extraordinary circumstances and the employer's general obligation to ensure health and safety at the workplace, the employer, in general, may ask other employees to report if they observe flu symptoms that could mean that the relevant employee is a "risk-factor". At the same time, information about health condition belongs to the confidential information (information with limited access). Therefore, due regard should be given to personal data protection if the employer is considering to implement such policy, as long as the latter might be viewed as an intrusion on privacy.
  - Practically, it is reasonable to adopt a general company policy on how to behave in the face of virus epidemic, so that employees having any illness symptoms duly report to the employer.
  - CDC also encourages to place posters that encourage staying home when sick, cough and sneeze etiquette, and hand hygiene at the entrance to the workplace and in other workplace areas where they are likely to be seen.
- 4. Can employees refuse to come to work?**

  - Generally, no, and no official guidelines have been provided in this regard.
  - Employees can refuse to come to work due to illness of the employee or his/her family member confirmed by the sick leave paper, extract from the medical card and other evidence.
  - The employer may adopt a flexible policy allowing employees not to come to work and work from home if feeling unwell or if the employee's place of work is in close proximity to where the infected employee was located (i.e., same open space office).





# Ukraine

## 5. Can employees refuse to attend meetings or to travel?

- Generally, no, if this is required as part of their duties.
- With regard to travelling, the Ministry of Foreign Affairs of Ukraine recommends Ukrainian nationals to limit their trips to China, the Republic of Korea, Japan and Italy. This recommendation must be taken into consideration both by employers and employees when planning business travels.
- When planning business travels, we recommend the employers to assess whether any business travels are essential, especially to the affected areas and to any area where the virus is spreading.

## 6. Can the employer send employees on suspension from work?

- The employer cannot require the employee to go on leave (i.e., release the employee from showing up to work with continued pay). The employer must obtain the employee's consent and a written application for such leave, because the garden leave should be formalized as additional paid vacation.
- Generally, if the employer is aware that the employee is a "risk-factor" (has flu symptoms or just returned from affected area), the employee may ask such employee to work remotely (provided that is not actually sick) under the condition that such arrangement is allowed by the employer's policy.
- If remote work is impossible, the employer may suspend the employee from work under certain (very limited) circumstances, in particular:
  - i. the disease should qualify as "especially dangerous" or "dangerous" (the current list of such diseases does not expressly provide for COVID-19); alternatively, the employee should be engaged into providing public service (under the condition that his/her further work might spread such disease, and he/she may not be temporary transferred to another position); and
  - ii. the employee's infection is to be confirmed.

Arguably, the majority of office employees with flu symptoms might not be suspended from work, because the above criteria are not satisfied. At the same time, the state sanitary and epidemiological authorities are entitled to initiate suspension from work of certain categories of employees. If such decision is taken, the employer must comply with it and suspend the relevant employees from work.

- As of 11 March 2020, the Kyiv authorities have imposed some restrictions to prevent the spread of Covid-19. In particular, the employer must initiate the suspension from work of an employee having symptoms of the disease. Also, Ukraine's Ministry of Health has published general recommendations, which state among others that the Employer must not admit to work the employee with symptoms of the virus infection.

## 7. When is the employer forced to shut down its operations?

If the authorities announce a quarantine regime within certain territory, certain restrictions may be established with respect to companies (e.g., a quarantine regime may provide for the change of the working arrangements, the terms of the production activities etc.). The list of such restrictions is not expressly provided by law. Therefore, an argument can be made that the employer might be forced to temporary shut down its operations.



# Ukraine

8. **Does the employer have the obligation to report infections occurring in the business to the health authorities?**
- Such obligation is not expressly provided by law.
  - The employer, however, has a general obligation to notify the state sanitary and epidemiological authorities about "extraordinary events and situations" that threaten health of population. Arguably, COVID-19 might fall into such extraordinary event. In addition, if the sanitary and epidemiological authorities investigate incident of an infectious disease, the employer will be obliged to provide the relevant information about epidemiological situation to such authorities.
9. **Can the employer request an employee to see a doctor?**
- There are no official guidelines in this regard.
  - Only employees providing public service and whose activities can lead to the spread of infectious diseases may be subject to additional medical check (on top of compulsory ones) if the epidemic situation aggravates.
  - Persons who have been in contact with patients with particularly dangerous and dangerous infectious diseases or bacterial carriers of agents of these diseases are also subject to mandatory preventive medical examinations and further medical supervision.
10. **If employees are sent on suspension from work, or refuse to come to work or if an operation is being shut down, do the employees still need to be paid?**
- If the employee is sent on garden leave (that is formalized as a paid vacation), the employee is entitled to receive his/her average salary for the entire period of such paid vacation (garden leave).
  - If the employee is suspended from work due to confirmed infectious disease, such employee will be entitled to a sick pay.
  - As mentioned in items 4 & 5, in general, the employee might not refuse to come to work.
  - If the operation is being temporary shut down, the employees may be sent on labor idle, as long as the employer will not have the required organizational or technical conditions to perform any work. In such case, the employee is entitled to receive at least two thirds of his/her monthly salary.
11. **If kindergartens and schools are being closed and employees need to stay home and cannot work, does the employer need to pay them and - if so - for how long?**
- No, the employer is not obliged to pay under these circumstances.
  - If kindergartens and schools are being closed (i.e., a quarantine was announced by the authorities at the educational institution where the relevant child is enrolled), certain categories of employees with children of up to 14 years old are entitled to unpaid vacation granted for the period of the quarantine. The employer must provide such vacation to the employee by law if the relevant employee so expressly requests.



# United Arab Emirates

- 1. Are employees obliged to disclose themselves as a "risk-factor" to the employer?**

  - The UAE Civil Code sets a general principle that all contracts (including the labour contract) must be concluded and performed in a manner consistent with the requirements of good faith. This could provide grounds for an employer to argue that failure by an employee to disclose themselves as a risk factor is a breach of this obligation, due to the potential creation of a health hazard (and negative affect on the employee's work).
  - In the circumstances and in light of the measures being taken by the UAE government to prevent the spread of COVID-19 our view is that an employee is obliged to tell their employer if:
    - they have a confirmed infection;
    - have visited a high risk area
    - have had contact with a confirmed case.
  - Employees must comply with their employer's absence procedures if they are unable to report to work due to sickness, quarantine or self-isolation.
  - Individuals who have suspected COVID-19 must notify the health authorities (DHA call centre on 800 342, the Department of Health Estijaba service on 8001717 or the Ministry of Health and Prevention on 80011111) prior to visiting the nearest health centre.
- 2. Can the employer demand employees to disclose themselves as being a "risk-factor"?**

  - Yes. An employer may request/demand employees to disclose whether they have recently travelled to a high risk area, have been in contact with a confirmed case and/or if they have a confirmed infection.
  - In the circumstances, it is reasonable for employers to request this information as a measure to help protect the workforce and prevent the spread of the disease throughout the country.
- 3. Can the employer issue an instruction (or a policy) requiring employees to report co-workers with flu symptoms (i.e., fever, cough, difficulty breathing, pain in the muscles, tiredness) to the employer?**

We do not recommend that employers issue such an instruction in the UAE. This is not in line with the notices issued by the health authorities. Further, such an approach risks giving rise to defamation claims.



# United Arab Emirates

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|---|---|
| <b>4. Can employees refuse to come to work?</b>   | <ul style="list-style-type: none"><li>■ Generally no, unless instructed not to attend work by the authorities.</li><li>■ If the employee has a high risk of developing severe COVID 19 symptoms or there is a confirmed case in the work place, it will, in the current climate, be difficult for an employer to justify disciplining an employee for refusing to come to work.</li></ul>   |
| <b>5. Can employees refuse to attend meetings or to travel?</b>   | <ul style="list-style-type: none"><li>■ The Ministry of Health and Prevention has advised UAE residents and citizens not to travel abroad. On re-entering the country individuals may face medical checks and possible quarantine. Accordingly, employees may have justifiable reasons for refusing to travel (particularly to high risk countries). In the current circumstances, our view, is that it is highly possible that an employee may find favour with the Ministry of Human Resources and Emiratisation and/or a labour court in the event they were subject to disciplinary measures a result of refusing to travel.</li><li>■ All employers should assess whether travel is essential. employees who at risk of developing serious symptoms should not be pressured to travel.</li></ul> |
| <b>6. Can the employer send employees on suspension from work?</b>  | Yes, an employer can send employees home from work but it cannot suspend their employment or employment contract and must continue to pay their wages during such suspension.   |
| <b>7. When is the employer forced to shut down its operations?</b>  | The employer is obliged to impose business restrictions or to close down the business premises if instructed to do so by authorities.   |
| <b>8. Does the employer have the obligation to report infections occurring in the business to the health authorities?</b> | There is no express duty on the employer to report. However, in the circumstances, we would recommend that an employer reports any suspected cases to the relevant UAE health authorities – upon consultation with employee in question.  |
| <b>9. Can the employer require an employee to see a doctor?</b>   | Yes. In our view, particularly in the current circumstances, if an employee was displaying symptoms then the employer could require the employee to see a doctor.   |



# United Arab Emirates

**10. If employees are sent on suspension from work, or refuse to come to work or if an operation is being shut down, do the employees still need to be paid?**

Whether the employee remains entitled to be paid will depend on the reasons why they are not working:

- Employees who are ill, may be entitled to sick pay.
- If the employee has been sent home by their employer, our view is that they would remain entitled to full pay.
- An employee who refuses to attend work without good reason would not be entitled to pay .

**11. If kindergartens and schools are being closed and employees need to stay home and cannot work, does the employer need to pay them and - if so - for how long?**

There is no obligation on the part of the employer to pay. employee may take annual leave or agree on unpaid leave or remote working arrangements with their employer.





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