

H&H NEWS

Coronavirus (COVID-19): labour aspects to be considered

March 17th 2020

In view of the number of inquiries that we are receiving from our clients about how to proceed in the workplace due to Coronavirus (COVID-19), we prepared a short guide that does not intend to be comprehensive of all the problems involved but that will try to evacuate some queries. It should be considered that its content may be modified due to the dynamics of this changing scenario.

1. The employer must ensure the health, hygiene and safety of his employees

Considering that such responsibility lies within the employer, it will be the employer's responsibility to adopt all necessary measures to prevent COVID-19 in the workplace.

In this regard, it is important that companies consult with their Occupational Health and Prevention Services regarding the existing risk and the preventive measures to be applied, taking into account the particularities of the activity. It is the responsibility of the employer to apply all necessary measures in this regard.

As a counterpart, workers have the obligation to report any situation that could, for reasonable reasons, lead to serious and imminent damage to their life, health and other workers health.

In this sense, employees are obliged to report if they have returned from a risky area or have been in contact with infected people.

2. The employees have an obligation to go to work

Unless otherwise provided, employees have a duty to attend work. The International Labour Convention (CIT) N ° 155 in its article 13 establishes the right of every worker to interrupt the work s for believing, under reasonable reasons, that it entails an imminent and serious danger to his life or health.

In this sense, the employee could refuse to go to work or interrupt his tasks if considers that there is a danger in the specific conditions in which performs his task. It is the Occupational Health and Prevention Services who must determine the degree of risk of the activity and whether there are measures to be applied.

If in spite of the measures adopted by the employer, the worker refuses to attend, in principle said absence will be an unjustified



HUGHES & HUGHES

absence, the payment of his salary would not correspond and could be subject to disciplinary sanctions.

3. Employees currently not allowed to go to work

Those employees who have returned from the risk areas or have been in contact with infected people must remain in quarantine for 14 days.

In these cases, they will be covered by the common-disease subsidy provided by the Social Security Office (BPS) for such purposes.

In the event that there is personnel who is in any of the risk groups, the situation should be evaluated by their treating doctor and so it is him who will eventually arrange a sick leave, if applicable.

4. Employees that decide to travel to risk areas

It should be taken into account that employees who decide to travel for personal reasons to places that are defined as a risk zone, upon returning will have to comply with the mandatory 14-day quarantine, but as they were already aware of this situation before traveling, they will not be covered by the common disease regime granted by Social Security Office (BPS).

In case that the employee agrees to travel for work reasons and therefore upon his return, he must comply with the mandatory quarantine, he will be entitled to receive the entire salary during the period thereof.

As we already mentioned, in application of CIT N ° 155, the employee could refuse to travel to risky areas since he would be risking his health.

5. Possibility of teleworking

In our country, currently, we do not have express regulations on this type of work. However, several companies have long applied the reference method.

Taking into account the health emergency situation and the recommendations made by the authorities, whenever the activity and the position allows it, it could be agreed to carry out the tasks remotely.



HUGHES & HUGHES

Bear in mind that it will be up to the employer to provide the work tools for this purpose and to assume the corresponding costs.

6. Alternatives to consider by employers

Granting paid annual holidays for employees who have annual leave pending to be enjoyed.

Send the employees to unemployment insurance for total or partial suspension of tasks for a maximum period of 4 months in the event that there is an outbreak in the company and the authorities order its closure, in the event that they do not have the elements to continue working for shortage of raw materials, interruption in transportation, suffering adverse impacts as a result of the measures adopted or that could be adopted by the authorities, etc.

For more information you should contact:



Dr. Enrique Radmilovich
enriquerad@hughes.com.uy



Dra. Florencia Fitipaldo
ffitipaldo@hughes.com.uy



Dra. María Durán
mduran@hughes.com.uy