

Covid-19:

KEY CONSIDERATION OF AN EMPLOYER

Vietnam, March 2020



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1. Maintain Operation

Quarantined employees

- Dismissal is unlikely to do under the laws of Vietnam, except for special cases.
- Salary during quarantined period is not well-regulated by laws.
It should be subject to the agreement among the employer and employees.

For the avoidance of risk of claim, the employer may seek an official guidance from the labor authority (Department/Ministry of Labor, Invalid and Social Affairs) on matters in advance.

Note

1. Maintain Operation

Home-working employees

- Consider expatriate who traveled to affected areas;
- Review relevant home-working-related policies to clarify:

- Differences between paid leave and home-working;

Note: For home-working, employees are obligated to perform works. Poor performance of works may result in dismissal under the laws of Vietnam.

- Confidential obligations when working outside the company; and
- Salary and benefits for home-working days.

1. Maintain Operation

Home-working employees

- Request them to return to the office, please:
 - Check relevant administrative orders of the state authority;
For instance: re-opening date of business (some business must be closed due to the outbreak, e.g., schools), protective clothing/face masks for employees, entry to Vietnam from affected areas, etc.
 - Consider the re-opening of schools for employees who have to take care of their children.

1. Maintain Operation

On-site employees

- For some sectors (retail, manufacturing, healthcare) require physical present, please take into account the followings to prevent the spread of 2019-nCoV:
 - Limit the number of employees presented;
 - Arrange team rotation; and
 - Utilize videoconferencing;

1. Maintain Operation

On-site employees

- Review travel policy to:
 - Limit employee business travel from affected areas; and
 - Determine whether employees have the right to refuse to travel to affected areas.
- Consider to defer/cancel planned employee trips where needed.

1. Maintain Operation

General note

- Changes in some policies will be subject to consultation with the grass-root trade union.
- *Force majeure* concept does not exist under the labor code of Vietnam.
- Instead, the labor code regulate employment issues arising out of disease (rather than *force majeure*).

2. Manage Operational Risks

- Explore whether the employer can establish policies/practices to increase the physical distance among employees, clients, etc.

For instance: flexible worksites and working hours.

- Identify essential jobs/roles to plan for their increasing absenteeism.
- Consider data protection issues if authorities ask the employer to collect and share employees' (and even their family's) health status and travel history.

3. Reduce Employment Expenses

Measures

- Redundancy;
- Termination of employees in probation;
- Adjustment of salaries;
- Deferment of salary increases;
- Transfer of employees to another job;
- Changes of reimbursement/bonus policies;
- Reduction of working time; and
- Encouragement to employees to take unpaid leave.

*These measures may trigger legal issues.
Please carefully consider and consult with legal counsel in advance.*

Note

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