

5 Questions about the Employers' Obligations and the Employees' Rights related to COVID-19



For more information please contact:

Charalambos G. Prountzos
CESA Law Leader,
Law and Funds Services Leader of
EY Cyprus
Charalambos.Prountzos@cylaw.ey.com

Demetris Kailis
Advocate, Manager, Legal Team
Demetris.Kailis@cylaw.ey.com

Tania Tofaridou
Advocate, Legal Team
Tania.Tofaridou@cylaw.ey.com

Prountzos & Prountzos LLC
36, Agias Elenis Street,
Galaxias Building, Block B,
Office 602, 6th Floor, 1061
Nicosia, Cyprus
Tel: +357 22 669699
Fax: +357 22 669650
Email: info@cylaw.ey.com

The first confirmed cases of COVID-19 in Cyprus are a fact, thus requiring immediate adoption of appropriate preventive measures by employers in order to safeguard a healthy work environment. It is worth noting that, in an effort to limit the spread of COVID-19, the Ministry of Health has issued rigorous measures that raise important questions about the rights of the employee.

1. What are the Employer's obligations in view of the risk of COVID-19;

Every employer is legally required to continuously evaluate the work environment and take all necessary action in view of possible risks. Covid-19 is an obvious danger in many businesses. Appropriate measures must therefore be taken to ensure health and safety at work. Examples of this type are providing disinfectant, antiseptic and technical capabilities as an alternative to physical meetings (eg videoconferencing).

2. Can the Employer prohibit an employee who may be infected to enter the premises?

The employer is responsible for providing a safe and healthy work environment. Refusing access to a potentially infected employee in order to protect other employees, is a valid reason for denying this person access to the workplace. Specifically, the Ministry of Health is monitoring the situation and issues Travel Guidelines that specify which individuals should be subject to mandatory self-restraint and which should be self-monitored.

Where employees must put themselves under compulsory self-restraint, but they are able to work, then, if possible, they may be allowed to work from home. If this is not possible, then it is a matter of question as to whether the employee will be entitled to payment for the period he/she is under compulsory self-restraint. Because the employee is absent from the employer's absence, the latter is not obliged to pay him a salary for the period of absence.

According to the Council of Ministers Decision on 28/02/2020, compulsory absence from work based on instructions or orders of the Authorities in (a) quarantine and provided that they hold a certificate issued by the Ministry of Health, (b) home restriction or (c) otherwise, will be treated as if they were absent due to illness from the Social Security Fund.

3. I'm a parent, schools have been suspended and I need to stay home to take care of my children. Can I be absent from work? Will there be deductions from my salary?

The rapid spread of the Covid-19 virus and its declaration from WHO as pandemic has made it necessary, inter alia, to temporarily suspend the operations of all schools, at all levels of education, both public and private, resulting in a large proportion of working parents having to get permission to stay at home. To that end, it appears that there is a legislative gap as to what type such 'leave' constitutes and accordingly who will compensate the employee. To date, no official decision has been taken by the Council of Ministers to specifically address this issue, however such decision it is expected within the following days.

Until such decision is made, in such cases, an agreement must be made between the employer and the employee. Indicatively, the employee could, if possible to work from home, be on unpaid leave or shorten his or her working hours for a specified period or be absent from work without any deductions, provided that the lost time will be recovered when he or she returns to work. In any case, the employee may make use of his/her annual paid leave.

4. Which steps need to be taken by the employer to alert other employees if there is one diagnosed individual at the workplace?

As the employer is responsible for providing a safe and healthy work environment, appropriate measures must be taken to ensure that other individuals are not infected in the workplace. Employee's privacy in respect of Covid-19 should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with Covid-19. For example, in countries to which GDPR applies, the Covid-19 data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.

Personal information about the disease should always be treated with caution. Consequently, information on a confirmed case should not be spread over a larger number than necessary. However, if there is a valid reason, that is to say if more people have come in contact with the confirmed case, then this can be communicated to such a larger group of people.

5. Does an employee need to answer the employer's questions on whether the employee has recently spent time in high-risk or restricted areas?

The right to privacy is constitutionally guaranteed, but it is not absolute. In cases where, inter alia, a public health issue arises, the interference with the right to privacy is justified. Therefore, since the employer must maintain a healthy and safe working environment, such a question may be asked by the employer to the employee and the latter must answer. Of course, as mentioned above, the employee's responses will be processed under the umbrella of GDPR legislation.

EY | Assurance | Tax | Transactions | Advisory

About EY

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit ey.com

© 2020 Ernst & Young Cyprus Ltd All rights reserved.

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, or other professional advice. Please refer to your advisors for specific advice.

ey.com/cy