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وزارة الشغل والإدماج المهني
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Explanatory guide

Providing answers to possible questions induced by the risk of the Coronavirus epidemic in the work context.



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Through this explanatory guide which comes after the joint press release between the Ministry of Labour and Professional Insertion and the Ministry of Industry, Trade and Green and Numerical Economy of March 16th 2020, and as a contribution to In the fight against the effects of coronavirus, the Ministry of Labour and Professional Insertion will present the necessary instructions and guidelines addressed to employees and employers in the form of questions and answers.

It should be noted that the legal basis for the answers to the questions presented in this guide is Moroccan law, and in particular social legislation, which contains provisions that could contribute to the management of exceptional and transient crises, with the aim of sustaining economic activity and safeguarding jobs.

Questions / Answers:

1 ***1-Can the company impose paid leave in this pandemic situation?***

Article 245 of the Moroccan Labour Code allows the employer to set departure dates on paid leave this after consultation with the employees' representatives and, if necessary, the union representatives in the company. Employees affected by the leave should be consulted.

2 ***Can employees benefit from other leaves?***

The employer and the employee can agree to benefit from:

- Additional paid leave.***
- Additional leave with partial coverage.***
- Additional unpaid leave.***

3

Can working time be reduced to cope with the Coronavirus crisis?

Yes, it is perfectly legal to reduce the normal working time, in accordance with the provisions of article 185 of the Labour Code under conditions:

- ***Consult employee's delegates and, where appropriate, union representatives within the company.***
- ***That the salary to be paid for the actual working time must not, under any circumstances, be less than 50% of the normal salary, except for more favourable provisions for the employees.***
- ***That the period of continuous or discontinuous reduction of work shall not exceed sixty days per year.***

4

Can normal working hours be reviewed to cope with the increase in business activity?

The provisions of Article 196 stipulate that when the company is faced with work of national interest or exceptional surpluses of work, employees of the company may be employed beyond normal working hours, the conditions are laid down by Decree 2.04.570 on the conditions of employment of employees beyond normal working time.

5

What about the organization of work in successive shifts?

The legislator has allowed recourse to work in successive shifts, provided that the use of successive shift work does not exceed eight hours per day and that this time is continuous, unless there is an interruption for rest, which may not exceed one hour.

6

Can access to work be prohibited for employee infected with Coronavirus?

In general, the employer must ensure the salubrity and cleanliness of the work premises, thus safeguarding the health of all employees. To this end, he must take all necessary measures to prevent the contaminated employee from accessing the work premises.

7 *What is the legal situation vis-à-vis the employer for the employee in confinement?*

Two situations should be distinguished:

a- Voluntary confinement without having provided support, a medical certificate attesting to the illness, which is not covered by law, unless individual contracts or a collective agreement or even the company's internal regulations, provides otherwise. This situation can be assimilated to paid leave after the agreement between the two parties.

b- Having proven the existence of the illness or the contamination by a medical certificate and this case remains governed by social security legislation.

8 *Can the employee withdraw from the workplace if a case of Coronavirus contamination is reported?*

In the event of the discovery of a case of Coronavirus contamination among the company's employees and in order to preserve and protect the health and safety of employees in the workplace, the company must notify the competent authorities in order to make the arrangements that are required.

9 *Can the employer respond favourably to the request for a meeting of employee representatives?*

As part of the mobilization and awareness-raising of measures to ensure the normal functioning of the company, the employer may hold meetings with employee representatives if necessary, while observing the preventive measures decreed by the government authorities to combat this virus.

10 *Does the law allow the employee to perform his work from his home for the benefit of the employer and under his responsibility?*

According to Article 8 of the Labour Code, employers are authorized to make employees work from their homes, provided that they comply the hygiene and safety measures provided for in Decree N ° 262.12.2 of July 10th 2012, and they have insurance against accidents at work covering the employee, in accordance with the provisions of Law No. 12.18. This agreement thus concluded between the two parties, may in no way affect the advantages previously acquired prior to the use of this mode of work.

11 *Is the employment contract suspended in the event the employee is placed under medical supervision or in a confinement situation?*

As this coronavirus is considered as an illness, which causes the employee to be absent, this situation in the view of Article 32 of the Labour Code, leads to the provisional suspension of the employment contract

12 *Can the employer measure the employee's temperature before he enters the company's premises?*

As part of the necessary health precautions and measures imposed by the public authorities, the employer may measure the temperature of the employee before his access to the company premises. However, this measure remains even more legitimate when it is taken in exceptional health situations.