

EMPLOYERS IN INDIA AND CORONAVIRUS**1. INTRODUCTION**

Many countries today are in the grip of the coronavirus (“COVID-19”) and recently, cases have been reported in India, as well. Therefore, it is becoming important for employers in India to ensure that the workplace continues to be a safe and healthy environment as part of their statutory obligations.

The Ministry of Health and Family Welfare of the Government of India (the “MoHFW”) has issued travel advisories¹ in respect of COVID-19 for immediate implementation. Based on the advisories of the MoHFW, the Office of the Director General of Civil Aviation of the Government of India issued a circular on March 3, 2020 to prescribe certain travel restrictions relating to COVID-19. The Cabinet Secretary of the Government of India held a review meeting on the same date with various authorities and health secretaries of States to review and assess the action taken for the containment of COVID-19².

Given that it is a developing situation, COVID-19 may not directly be covered within the statutes applicable to an employer. While the Central and State Governments may continue to issue advisories in the following days, employers may want to consider taking some proactive measures besides appointing one or more representatives for implementing and monitoring developments at the workplace.

2. SOME MEASURES THAT MAY BE CONSIDERED BY AN EMPLOYER**2.1. Travel**

Employers may want to avoid or defer business travel by their employees to the extent possible, particularly to (or through) regions where cases of COVID-19 have been reported. Instead, they may want to explore available alternate means, such as video conferencing, to ensure that business matters are attended to with minimal disruption. Employers may also want to advise their employees to also refrain from undertaking personal travel, especially to affected regions.

2.2. Hygiene at Workplace

Employers may want to encourage employees to ensure good hygiene at the workplace and follow safety protocols including washing and sanitizing hands at regular intervals, and/or wearing face masks, as may be appropriate.

¹ <https://pib.gov.in/PressReleaseDetail.aspx?PRID=1604942>

² <https://pib.gov.in/PressReleaseDetail.aspx?PRID=1605050>

2.3. Awareness

Employers should share information for the benefit of their employees in the form of advisories through electronic means or posters at the workplace.

The Government of India has issued several advisories based on traditional Indian medicine practices, i.e., Ayurveda, Homeopathy and Unani³ in respect of precautions that may be followed. Employers may want to share them with their employees besides updating them, as and when needed, on the progress of the outbreak.

Employees should also be encouraged to share information with employers' representatives, in case an employee or anyone he/she knows has either been to any of the affected regions or been in contact with a possibly infected person.

2.4. Employees who are Unwell

Any employees who are unwell, especially those who may have symptoms similar to a patient of COVID-19, should be asked to refrain from coming to the workplace and either avail sick leaves or any other leaves that may be available to them, or work as per the protocols laid down by their employers. Such employees should also be advised to seek medical help and provide, if requested, medical records and certificates of good health to the appropriate and authorized representatives of their employers.

2.5. Work from Home

In addition to extending leaves to employees displaying COVID-19 symptoms, employers may want to consider allowing the following employees ("**At-Risk Employees**") to work from home:

- (a) Employees returning from affected regions;
- (b) Employees who have been visited by people from affected regions; and
- (c) Employees who have been in direct or indirect contact with any of the above persons or any person possibly infected with COVID-19.

2.6. Avoid Sharing Unverified Information

Since this is a developing situation in India, employees should be advised to refrain from indulging in disseminating incorrect or unverified information at the workplace, and should consult their employers' representative on how to deal with such matters.

2.7. Medical Examination

With respect to At-Risk Employees, employers may want to analyse applicable laws and company policies to examine the options available to have such At-Risk Employees undergo medical examination.

³ <https://pib.gov.in/PressReleasePage.aspx?PRID=1600895>

Employers may also examine the rights and options available to employees, if they ask employees claiming to have recovered, to undergo medical tests under a medical practitioner of the employers' choice, before allowing them to return to work.

2.8. Confidentiality

It is advisable to keep the medical information of employees in the strictest of confidence, to be shared with the employers' representatives or with other employees, only on a need-to-know basis, with strict instructions to maintain confidentiality and disclose only as per the employer's policy or as per the requirements of the Central and State Governments.

3. **INDUSLAW VIEW**

It may be prudent for employers to consult medical specialists about COVID-19 and implement the precautions they suggest. It is also important for employers to stay abreast of the advisories issued by the Central and State Governments. Further, if an employer in India has overseas entities or business operations, it may also want to stay up-to-date about the developments in those countries.

Employers should consult their legal counsel to develop and implement a strategy to deal with the employment law-related implications involving COVID-19.

Therefore, it will be important to examine the applicable laws, along with company policies and employment contracts, when deciding to introduce any policies or practices, to ensure that these are legally compliant, and all financial aspects have been considered when introducing them. It will also be crucial to ensure that these steps are not intentionally misinterpreted, misconstrued or misused by any employees. Given that workplaces also engage vendor employees and other types of workforce, all relevant aspects involving such workforce need to also be examined to find an effective solution.

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