

Corona Virus Policy

The Occupational Health & Safety Act 85 of 1993 places an express obligation on the employer to maintain a working environment that is safe and healthy. On the issue of a healthy working environment, the employer must ensure that the workplace is free from any risk to the health of its employees as far as it is reasonably practicable. Within the context of Covid-19, there is a clear obligation on the employer to manage the risk of contamination in the workplace.

Employers should consider the following proactive steps given the scale of the illness globally:

- **Follow health advice and information:** The employer should follow health advice from the WHO (as an international source) and the Department of Health and the National Institute of Communicable Diseases (as local sources).
- **Communicate with employees:** The employer should consistently provide updates on Covid-19 to employees and its approach at work regarding attendance and preventing the spread of infection.
- **Prevent the spread of infection:** The employer should consider that there are adequate facilities for employees to wash and/or sanitize their hands regularly within the workplace. If it becomes necessary, the employer may introduce a designated area in the workplace where employees may self-isolate if they experience symptoms whilst at work. The WHO has advised that, in countries where the illness has started spreading, employees with a mild cough or low-grade fever (37.3 or more) should be encouraged to stay at home and seek medical attention immediately.
- **Identify vulnerable workers:** Covid-19 poses a greater risk to employees with weakened immune systems and long-term health conditions. Vulnerable workers include pregnant employees and disabled employees. Employers should pay special attention to such employees.
- **Updated emergency contact information:** Employees should be required to review and update their emergency contact information.

South African Labour legislation does not make provision for emergency sick or annual leave for instances such as the present. Any absence from the workplace without permission must however still be justified by the employee by means of a medical certificate if the employee has been absent from work for more than two consecutive working days or on the third occasion during an eight-week cycle.

As an alternative to placing the employee on any type of leave, the employer could make it possible for the employee to work from home. The employer may need to put certain measures in place or assist such an employee to work from home.

Sick leave and or payments would work as follows:

- I. **Government isolation:**
If the industry is closed due to government instruction, the employee will be isolated on the principle of “no work no pay.”
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1. Events management:

- 1.1 Where the industry is not able to operate due to cancellations of events, the company must do full consultations with the employees to activate short time to alleviate the financial burden on the company.
- 1.2 Where the industry is not able to operate due to government instructed cancellations of events with more than a 100 people, the employee will be given the option to go on unpaid leave or use her/his accrued annual leave due to the principle of “no work no pay,” that will be applicable in this period.

2. Hospitality industry/Restaurant industry:

- 2.1 Where the industry is not able to operate due to cancellations of bookings of clients and is not financially feasible to keep the company open the company must do full consultations with the employees to activate short time to alleviate the financial burden on the company.
- 2.2. Where it is impossible to continue with normal business activities, employers will be required to temporarily lay-off employees. Due consideration must however be given to relevant Bargaining Council Main Agreements where the business falls under the scope of such council. Such layoff is normally unpaid and as alternative to retrenchment. Therefore, with due consultation that will be minuted, the employer and employee can come to a mutual agreement of shorter hours worked in order to avoid a total shutdown of the business.
- 2.3 If the hotel/restaurant is closed due to government instruction the employee will be isolated on the principle of “no work no pay.”

III. Sick:

1. If the employee is sick, normal sick leave will be applicable.
2. The employee must disclose the fact that he/she is diagnosed with the coronavirus, for the company to make contingency plans in so far, the other personnel are concerned.
3. This is a highly contagious disease and the employee must therefore disclose the sickness always and must return to work with a full medical report that he/she is healthy and fit to return to work.
4. Employees should however be encouraged to disclose general symptoms of a cold or flu to the HR Department without delay.
5. Such employees will be required to stay at home until such time they are fit to return to work. They will however still be required to justify their absence by means of a medical certificate issued by a registered medical practitioner. Should the employee be able to justify absence from work by means of such a certificate, the period of absence will be paid from the employee’s sick leave entitlement.
6. Should the employee not have sufficient sick leave available, such absence will unfortunately be without any remuneration or benefits, unless annual leave is available for payment purposes or if otherwise decided by the employer.

IV. Work isolation:

1. Sick

As per paragraph III.

2. Isolation due to person in contact with a sick person is sick.

The person, if not sick, can still be contagious with the virus although not presenting any symptoms. It would be advisable to consult with the employee, to use his available leave for this form of isolation and/or sick leave if the virus is however detected by a medical test in the person. In the case of compulsory quarantine (i.e. quarantine required and enforced by the employer) the employee will not be on sick leave unless a medical certificate has been issued to the employee placing the employee in quarantine and this will be deemed as special leave.

3. Travel isolation

3.1. Holiday travel

Employees that travelled to high risk areas for leisure and must be isolated afterwards, the principle “no work no pay” will be applicable.

3.2. Work related travel

Employees that travelled to high risk areas for work and must be isolated afterwards, will be paid and this period will be deemed as special leave and will not be deemed as part of her/his accrued annual leave.

4. Self-isolation

In the case of voluntary isolation (i.e. isolation at the request of the employee for precautionary purposes), the employee is not sick and therefore, sick leave should not be imposed.

V. Uncompleted Disciplinary Incapacity Proceedings

Where disciplinary action or incapacity proceedings are interrupted because of the presence of the virus in a workplace or due to the absence of the employee or witnesses; employers are advised to notify the employee in writing of its intent to continue with such disciplinary action or incapacity proceedings when circumstances have normalised.

VI. Family isolation:

1. Family member sick and isolated

Where isolation is needed, because of the presence of the virus in the family, the employee will need to take her/his annual leave. The rule in paragraph III, section 5 and 6 is still applicable.

2. Child isolated

Where isolation is needed, because of the presence of the virus in the employee’s child, the employee will need to take her/his annual leave. The rule in paragraph III, section 5 and 6 is still applicable

3. Schools closed

Employers should also take note of the fact that schools will close this Wednesday until after Easter weekend. This will be problematic for employees that have school going children below the age of 18 that will now have to be accommodated during the extended school holiday. Again, no special leave is applicable for the this, but employers will be advised to reasonably accommodate the absence of parents whose children must be looked after during this period, especially applicable for young children.

VII. Abuse of sick leave and this policy:

The employer does have the right to question any form of sick leave or self-isolation. The employer can always request proof of any of the last mentioned. Any abuse of this policy or any form of leave will lead to the employee, being charged accordingly for a disciplinary enquiry.