

ARTICLE

CORONAVIRUS: HOW CAN EMPLOYERS BEST PROTECT THEIR EMPLOYEES?

Employment and Social Security Law | 04/03/20 | Marie-Hélène Bensadoun Alexandre Dumortier

LIFE SCIENCES & HEALTHCARE

WHAT IS THE SCOPE OF THE RISK PREVENTION OBLIGATION ?

Employers have a general safety obligation vis-à-vis their employees, requiring them to take the necessary steps to ensure their workers' safety and to protect their physical and mental health.

This is an enhanced duty of care, which means that employers can avoid liability if they can prove that they have taken all the preventative measures provided for by Articles L. 4121-1 and L. 4121-2 of the French Employment Code.

HOW SHOULD THE RISK OF INFECTION BE ASSESSED?

This is an essential preliminary step because, for each group concerned, and in particular those at risk or in particularly exposed positions, it makes it possible to determine what actions should be taken to deal with the risk of infection.

This assessment must be recorded in the uniform occupational risk assessment document (DUERP), which, if necessary, must be updated to include the risk resulting from the coronavirus.

This assessment must be carried out not only having regard to the WHO guidelines and communications from the Ministry of Solidarity and Health, but also to any changes in the stance taken by other French companies. The French government has also produced a question and answer document on this subject.

HOW CAN RISKS OF INFECTION BE PREVENTED?

Once the risk of infection has been assessed, the employer must take the necessary preventative measures to control it.

This involves informing and training employees and potentially purchasing individual and/or collective protective equipment (masks, hydroalcoholic solutions, etc.). The Social and Economic Committee must be asked in advance for its opinion on the choice of individual protective equipment provided and the way in which it is to be used.

Failure to take preventative measures could expose the employer to legal risks, particularly if the infection of an employee is regarded as an accident at work or as an occupational illness, in which case the employer could face a liability action in respect of its potentially inexcusable conduct.

CONSIDER MAKING CHANGES TO THE WAY WORK IS ORGANISED

In certain circumstances, the preventative obligation may require changes to the way work is organised. The Social and Economic Committee must be asked in advance for its opinion on collective arrangements relating to the organisation of work.

These arrangements may include working from home, changes to the layout of the workplace or to the conditions of access to premises, or the prohibition of business travel to countries or areas designated by the employer as being at risk. Companies may also resort to partial reductions in activity.

WHAT SHOULD BE DONE IF AN EMPLOYEE BECOMES INFECTED?

In the event of an identified risk or in cases of serious doubt, the employee or employer must call 15 to report a medical emergency.

If the infection is confirmed, the questionnaire prepared by the government contains a list of recommendations regarding the cleansing of the premises.



Useful links

<https://www.gouvernement.fr/info-coronavirus>

UPDATE - 09/03/2020

https://travail-emploi.gouv.fr/IMG/pdf/coronavirus_entreprises_et_salaries_qr_v2.pdf

