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Employer Guidance on Reducing Workers' Risk of Exposure to COVID-19

With the increasing number of COVID-19 cases in Malaysia (a total of 149 as at 11 March 2020) and the World Health Organization (**WHO**)'s declaration of the disease as a pandemic today, it is imperative that employers have a policy in place for handling the outbreak at the office.

MOHR COVID-19 guidelines

On 5 February 2020, the Ministry of Human Resources (MOHR) released the "Guidelines on Handling Issues Relating to Contagious Outbreaks Including Novel Coronavirus (2019-nCoV)", which recommend the following steps for employers to prevent, mitigate or deal with the outbreak:

- (a) Instruct employees to be examined immediately, at the expense of the employer, by a registered medical practitioner or by a medical officer as stipulated by s **60F** of the Employment Act 1955;
- (b) Provide paid sick leave or hospitalisation entitlement during the quarantine period to employees who have been issued quarantine orders by a registered medical practitioner, regardless if they have been told to stay home or at the hospital. Employers are also encouraged to provide additional remuneration to employees with a quarantine order exceeding their sick leave or hospitalisation;
- (c) Provide full pay to employees issued with quarantine orders from a registered medical practitioner upon returning from countries with COVID-19 cases due to official duty or instructions from employers;
- (d) Not prevent any employees from attending work if no quarantine orders are issued by any registered medical practitioner. However, employers are allowed to instruct any unwell employee from coming to workplace by providing paid sick leave to the employee; and
- (e) Not instruct employees, in any way, to utilise their annual leave entitlement or take unpaid leave during the quarantine period.

Although the MOHR COVID-19 guidelines are not legally binding, employers are encouraged to adhere to best practices formulated by the ministry.

Employer's legal obligations

Section **15** of the Occupational Safety and Health Act 1994 (**OSHA**) provides for a legal duty on employers to ensure, so far as is practicable, the safety, health and welfare at work of all its employees. Employers are also bound by a duty to regularly formulate a safety and health policy at the workplace, and to bring the policy and any revision of it to the notice of all employees as stipulated under s **16** of the OSHA. Employers who are in breach of these duties shall be liable to a fine not exceeding RM50,000 or to imprisonment for a term not exceeding two years, or to both.

In devising a policy to ensure the safety, health and welfare of its employees amid the COVID-19 outbreak, employers may implement, among other things, the following measures as recommended by the WHO:

- Ensure a clean and hygienic workplace by regularly disinfecting surfaces (e.g. desks and tables) and objects (e.g. telephones, keyboards and printers);
- Promote good personal hygiene at the workplace among employees by providing hand sanitizers at prominent places and displaying posters promoting hand washing;
- Regularly disseminate materials and guidance from the authorities in relation to COVID-19 to employees;
- Conduct temperature screenings of employees at the entrance to the workplace;
- Instruct employees with symptoms of COVID-19 to seek immediate examination by a registered medical practitioner or by a medical officer;
- Before travelling, ensure that your organisation and its employees have the latest information on areas affected by COVID-19 and assess the benefits and risks related to upcoming travel plans accordingly; and
- Upon returning from travelling, especially from areas affected by COVID-19, advise employees to monitor their symptoms for 14 days and take their temperature twice a day.

As the Ministry of Health prepares for a surge in COVID-19 cases, it may be necessary to implement regular teleworking across the organisation and develop a contingency and business continuity plan to ensure smooth operations, especially if a significant number of employees cannot come to work while at the same time adhering to the latest guidelines issued by the authorities.

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