





Global HR Lawyers
Ius Laboris


Coronavirus (COVID-19) Update - Is Your Global Organization Ready?

Ius Laboris Member Firms: FordHarrison LLP; Mathews Dinsdale & Clark LLP; Basham, Ringe y Correa, S.C.; and Toffoletto De Luca Tamajo


» Thursday, March 26, 2020


Jeffrey D. Mokotoff
Partner
Atlanta, GA Office
404.888.3874
jmokotoff@fordharrison.com



Tiffany D. Downs
Partner
Atlanta, GA Office
404.888.3961
tdowns@fordharrison.com



Sami Asaad
Partner
Hartford, CT Office
860.740.1355
sasaad@fordharrison.com



United States

FORDHARRISON CORONAVIRUS TASKFORCE

The Centers for Disease Control

- About Coronavirus Disease 2019 (COVID-19)
- Prevention and Treatment
- What To Do if You are Sick
- Interim Guidance for Businesses and Employers
- COVID-19 and Cruise Ship Travel
- Implementation of Mitigation Strategies for Communities with Local COVID-19 Transmission
- Business Pandemic Influenza Planning Checklist

The World Health Organization

- Coronavirus

The Occupational Safety and Health Administration (OSHA)

- COVID-19

U.S. Equal Employment Opportunity Commission (EEOC)

- What You Should Know About the ADA, the Rehabilitation Act and

[the Coronavirus](#)

- Pandemic Preparedness in the Workplace and the Americans with Disabilities Act

U.S. Department of State

- Current Outbreak of Coronavirus Disease 2019
- Global Level 4 Health Advisory – Do Not Travel
- Passport Operations in Response to COVID-19

Centers for Medicare & Medicaid Services (CMS)

- CMS Prepares Nation's Healthcare Facilities for Coronavirus Threat

U.S. Department of Health & Human Services (HHS)

- HIPAA Privacy and Novel Coronavirus


Internal Revenue Service


- Treasury, IRS and Labor announce plan to implement Coronavirus-related paid leave for workers and tax credits for small and midsize businesses to swiftly recover the cost of providing Coronavirus-related leave

United States

Can Workers Refuse to Work?

- OSHA requires that employers provide employees with workplace free from "recognized hazards" that cause or are likely to cause death or serious physical harm (general duty clause)
- **Key Question 1 – Are we following all applicable Federal and State guidance on COVID-19 precautions?**





www.fordharrison.com | www.justlabors.com

United States

Can Workers Refuse to Work?


- The Americans with Disabilities Act (ADA)
 - Prohibits discrimination based on disability
 - Includes discrimination based on *being associated with someone with a disability*
 - Requires "reasonable accommodation" for workers with disabilities.
- **Key Question 2 – Has the worker expressed concerns relating to a disability or to the worker's association with someone with a disability?**


www.fordharrison.com | www.justlabors.com

United States

Related Resources

- Key OSHA Standards for COVID-19
<https://www.osha.gov/SLTC/covid-19/standards.html>
- CDC's Interim Guidance for Employers
<https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>
- EEOC's Guidance on ADA and COVID-19
https://www.eeoc.gov/eeoc/newsroom/wysk/wysk_ada_rehabilitaion_act_coronavirus.cfm


www.fordharrison.com | www.justlabors.com

United States

- Q: Are employers required to continue employment and employee benefits during the pandemic?
- A: It depends on the cost cutting measures, the status of the employees, the terms of the plans, collective bargaining agreements, employment contracts, and the applicable laws.
- Leave of absence
 - Mandated (federal, state, and local laws) versus employer's leave policy
 - Leave can be provided on a paid or unpaid basis
 - Paid Time Off ("PTO") may be utilized in connection with mandated leave

United States

- Cost containment: Reduction in hours, furloughs, reductions in workforce, or layoffs
 - These terms are not clearly defined under US law and can mean different things for different employers and in different settings
 - Could mean continuation of employment or termination of employment (payout of PTO and accrued wages)
 - Impact on eligibility and continuation of coverage under employee benefit plans
 - Layoff is a termination of employment and usually results in loss of employer provided health plan coverage
 - Reduction in hours does not usually end employment but can result in a loss of employer provided health coverage
 - Furlough can be considered a unpaid leave of absence or an employee who is maintained as an active employee with no hours and no pay, but it could trigger loss of health plan coverage depending on the health plan terms

United States

- Reduction in hours or termination of employment and loss of health plan coverage triggers COBRA
 - An employer may choose to continue to pay for all or part of active employee coverage or contribute to the cost of COBRA, but beware of non-discrimination testing requirements
- Potential trigger a partial plan termination under a retirement plan
 - Cost cutting event could trigger a vesting of terminated participants if over 20% threshold
- Use of employee benefits in a pandemic
 - Health plans required to provide coverage of COVID-19 testing
 - Telemedicine to encourage social distancing
 - HIPAA and Privacy issues
 - Employee Assistance Programs
 - Loans, hardship withdrawals, in-service withdrawals available to employees from retirement plans
 - Severance plans
 - Leave sharing programs
 - Supplemental Unemployment Benefit plans



United States

Families First Coronavirus Response Act

FFCRA
<500 EES

EMERGENCY PAID SICK LEAVE

- up to 80 hours (FT and PT)
- 6 reasons identified in Act
- full pay or 2/3 pay – depending on reason (subject to caps)

EMERGENCY PAID FMLA

- up to 12 weeks
- 1 reason (care for child)
- weeks 1-2 = unpaid
- weeks 3-12 = 2/3 pay (subject to caps)

United States

Families First Coronavirus Response Act


- DOL Question and Answer Guidance: <https://www.dol.gov/agencies/whd/pandemic/ffcr-questions>
- Effective Date 4/1/20; not retroactive.
- You have fewer than 500 employees if, at the time your employee's leave is to be taken, you employ fewer than 500 full-time and part-time employees within the United States. In making this determination, you should include employees on leave; temporary employees who are jointly employed by you and another employer (regardless of whether on your payroll); and day laborers supplied by a temporary agency
- two or more related entities are separate employers unless they meet the integrated employer test under the Family and Medical Leave Act of 1993 (FMLA)
- A part-time employee is entitled to leave for his or her average number of work hours in a normally scheduled two-week period. If the normal hours scheduled are unknown or varies, you may use a six-month average to calculate the average daily hours. Applies to both leaves

United States

Families First Coronavirus Response Act – DOL Q & As

- The Emergency Family and Medical Leave Expansion Act requires you to pay an employee for hours the employee would have been normally scheduled to work, including overtime, even if that is more than 40 hours in a week. But not the Emergency Paid Sick Leave Act (capped at 80)
- Under Paid Sick Leave Act, EE entitled to a maximum of \$511 per day, or \$5,110 total over the entire paid sick leave period, or 2/3rds of that amount if caring for child or individual with virus.
- Under expanded FMLA, you may take paid sick leave for the first ten days of that leave period, or you may substitute any accrued PTO. For the following ten weeks, you will be paid for your leave at an amount no less than 2/3 of your regular rate of pay for the hours you would be normally scheduled to work. EE will not receive more than \$200 per day or \$12,000 for the twelve weeks.
- "been employed for at least 30 calendar days by the employer" for purposes of expanded family and medical leave. Includes all days on the company's payroll, even if some of the 30 days EE was a temp through a staffing company.

Mathews Dinsdale & Clark LLP



For Labour's Canada Global HR Lawyers
MathewsDinsdale

Sara J. Malkin
 Partner
 Toronto Office

Canada

CANADIAN RESPONSE

- Restrictions and controls on international travel (public health recommendations updated regularly)
- Mandatory Coronavirus Quarantine (*Quarantine Act*)
- States of Emergency in various provinces & Cities
- Non-Essential businesses closed in various provinces
- Schools & Childcare closed in many jurisdictions
- Prime Minister's Message "Go home, stay home! You are not invincible!"

For Labour's Canada Global HR Lawyers
MathewsDinsdale

www.fordhamison.com | www.justlabors.com

Canada

CANADA EMERGENCY RESPONSE BENEFIT ACT

- Compensation for employees impacted by Covid-19 has been changing almost daily – new CERB **replaces** the Emergency Care Benefit announced on March 18
- Bill C-13 passed in the House of Commons March 24 ("\$82 billion dollar package")
- Provides compensations for "workers" who have earned minimum of \$5000 in the last 12 months who are out of work **for a number of reasons** related to Covid-19, but are not in receipt of other benefits set out in Employment Insurance Act
- Workers may apply for income support for any four-week period falling from March 15, 2020 to October 3, 2020
- Compensation – \$2000 per month for four (4) months for workers who are not receiving income, including self-employed

For Labour's Canada Global HR Lawyers
MathewsDinsdale

www.fordhamison.com | www.justlabors.com

Canada

JOB PROTECTED LEAVES

- Employment standards legislation from across Canada provides a variety of leaves and some jurisdictions are creating them for COVID-19 quarantines/isolations
- The requirements for such leaves vary and workers may not qualify
- Entitlement for leaves include issues like isolation/ quarantine/ potential exposure/ childcare obligations
- If employees simply refuse to come to work and is not sick or quarantined, this may be a resignation

Canada

PREVENTATIVE MEASURES

- For businesses still operating :
 - Self-reporting questionnaire prior to start of shift
 - Physical distancing
 - Staggered work times (if workplace still open)
 - Work from home
 - Avoid face to face / in person meetings (use technology)
 - Heighted due diligence for health & safety in the workplace
 - Additional / enhanced PPE / hygiene standards

Canada

HEALTH & SAFETY ISSUES

- Occupational Health and Safety Obligations
- Employers to take due diligence re: workplace safety
 - Appropriate PPE
 - Hygiene (including employee hygiene and workplace sanitization)
 - Assess risks regularly (situation constantly changing) and in respect of specific workplace issues
 - Consider the root of "refusals to work"

Canada

CHALLENGING ISSUES

- Absences related to actual illness
- Essential vs. Non-Essential Businesses
- Temporary layoff vs. Declared Leave
- Human Rights & Accommodation

ius Laboris Canada Global HR Lawyers
MathewsDinsdale

www.fordharrison.com | www.iuslaboris.com

Canada

Resources

- Mathews Dinsdale COVID-19 Insights: <https://mathewsdinsdale.com/insights/>
- Mathews Dinsdale FAQs re: COVID-19: <https://mathewsdinsdale.com/covid-19-and-the-workplace-frequently-asked-questions/>
- Government of Canada: Outbreak Update: <https://www.canada.ca/en/public-health/services/diseases/2019-novel-coronavirus-infection.html>
- Canada's COVID-19 Economic Response Plan: <https://www.canada.ca/en/department-finance/economic-response-plan.html>

ius Laboris Canada Global HR Lawyers
MathewsDinsdale

www.fordharrison.com | www.iuslaboris.com

Panelists from Basham,
Ringe y Correa, S.C.

ius Laboris USA Global HR Lawyers
FordHarrison

Jorge De Presno
Lead Partner of the Labor and
Employment Practice Group
Mexico City, Mexico

Alvaro Gonzalez
Partner of the Labor and
Employment Practice Group
Mexico City, Mexico

Mexico

AGENDA

- Current situation.
- Preventive measures, decrees published on March 24, 2020.
- Preventive measures and actions in the workplace.
- Medical controls and examinations.
- Social security matters.
- Legal effects of a formal declaration of a sanitary emergency.

Mexico

CURRENT SITUATION

- Mexico declared stage 2 of the sanitary contingency on March 24, 2020.
- As of 10:00 am CST March 26, 2020 there were:
 - 475 confirmed cases.
 - 1656 suspected cases.
 - 6 deaths.
- Mexico City (82) and the states of Nuevo Leon (52) and Jalisco (46) concentrate the majority of confirmed cases.
- There are confirmed cases in all 32 states of the Mexican Republic.

Mexico

**PREVENTIVE MEASURES TO MITIGATE AND CONTROL COVID-19
PUBLISHED IN THE OFFICIAL FEDERAL GAZETTE**

- On March 24, 2020, the Ministry of Health published preventive measures aimed to control the risks and mitigate the spreading of COVID-19.
- Senior adults and vulnerable individuals (pregnant or lactating women, people with disabilities or with chronic diseases) must stop working with full payment of wages and benefits.
- Activities of all sectors that involve high concentration, transit or displacement of people must be suspended until April 19, 2020. Employers must implement necessary measures to avoid falling in these assumptions.

Mexico

**PREVENTIVE MEASURES TO MITIGATE AND CONTROL COVID-19
PUBLISHED IN THE OFFICIAL FEDERAL GAZETTE**

- Businesses and commercial establishments necessary to face the contingency will continue to work as usual (i.e. hospitals, pharmacies, laboratories, medical services, financial institutions, telecommunications, hotels, supermarkets, among others.)
- Employment relationships must not be suspended and will continue governed by the same terms and conditions, except for the noted exceptions.

Mexico

PREVENTIVE MEASURES AND ACTIONS IN THE WORKPLACE

- Home office.
- Flexible hours.
- Reduced schedules and wages.
- Advanced vacation entitlement.

Mexico

MEDICAL CONTROLS AND EXAMINATIONS

- Employers may legally require employees to undergo medical examinations or controls such as temperature screening.
- Employees have the legal obligation to undergo these examinations and to respond questionnaires to determine if they may have been exposed to any risk situation.
- Temperature screenings for suppliers, customers, visitors or independent contractors in general.

Mexico

SOCIAL SECURITY MATTERS

- In the event an employee is infected with COVID-19, this shall be treated as a general illness, not work related.
- If the Mexican Institute of Social Security ("IMSS" for its acronym in Spanish) does not issue the certificate of disability due to general illness, then the employee must return to work unless the employer decides otherwise with full payment of salary.
- If there is no declaration of emergency or the employee does not have a certified disability by IMSS, the employment relationship will continue without affecting the rights and obligations of the parties.

Mexico

EFFECTS OF A DECLARATION OF A SANITARY EMERGENCY

- No formal sanitary emergency has been declared as of today.
- Federal Labor Law provides that such declaration will be considered grounds for suspension of employment relationships.
- Because it is a health emergency, the law itself sets forth that the employer will have the obligation to pay the amount of a daily minimum wage for up to a 30-day period, not regular wages.
- If the emergency lasts more than 30 days, then there will be no obligation to pay salaries to employees, notwithstanding, the employer may determine to pay some or all amounts, which will be entirely discretionary.
- Once the declaration of emergency is concluded, employment relationships must resume under the same terms and conditions as agreed prior to the contingency.

Mexico


RESOURCES

- Below is a list of links to newsletters issued by our Firm related to the Coronavirus pandemic, and also of links to official government sites that are constantly uploading updates:
- Covid-19 – Labor implications (<https://www.basham.com.mx/covid-19-labor-implications/>)
- Covid-19 – Travel restrictions US Border (<https://www.basham.com.mx/travel-restrictions-across-mexico-us-border-due-to-covid-19-virus/>)
- Official government webpage with Resources related to Covid-19 (<https://webcache.googleusercontent.com/search?q=cache:https://www.gob.mx/salud/documentos/nuevo-coronavirus>)
- Ministry of Health (<https://www.gob.mx/salud>)

100 Lombardy Italy Global HR Leaders
Toffoletto De Luca Tamajo

Toffoletto De Luca Tamajo

Employee Management During the Coronavirus Epidemic - General Measures and "Smart Working"



Lea Rossi
Partner
Milan Office

Italy - Progressive lockdown in the last 30 days

Lockdown measures

February 23 - First outbreaks in 11 northern municipalities - Those towns are put under lockdown - Suspension of working activities in those areas	March 8 - Lombardy and other northern regions put under lockdown - Entry into and exit from those regions prohibited - Closure of retail commercial businesses and catering services - Suspension of all public events	March 11 - Entire country under lockdown - Northern restrictions extended to cover the whole of Italy - Supermarkets, pharmacies and other essential services continue to work with safety measures - Travel and movement restrictions into, out of, and within the country	March 22 - Suspension of all commercial and manufacturing activities - New restrictions on travel and movement outside of the town in which you are resident - Only essential manufacturing activities can continue to be carried out
--	---	--	---

100 Lombardy Italy Global HR Leaders
Toffoletto De Luca Tamajo

www.toffolettoelucatamajo.it | www.toffolettoelucatamajo.com
© Toffoletto De Luca Tamajo s.r.l. 2020

Italy

Current Restrictions from 25 March 2020

- SUSPENSION of all manufacturing and commercial activities; continued closure of museums and cultural sites
- BAN on movement between towns except for: proven work or health reasons or other urgent matters
- Industrial production must be organized remotely if possible

Permitted activities

- a) Those linked to essential services, health and safety, and defence sectors
- b) Those essential to the supply chains of operating industrial production units as above
- c) Those linked to industrial operations which cannot be stopped

- Authorisation can be requested from the Ministry.

100 Lombardy Italy Global HR Leaders
Toffoletto De Luca Tamajo

www.fordhamilton.com | www.toffolettoelucatamajo.com
© Toffoletto De Luca Tamajo s.r.l. 2020

Italy

Health and Safety

- Information about procedures and instructions from the authorities
- Companies permitted to take the **body temperature** of its employees and refuse entry to anyone with a fever of 37.5° C or higher
- Possibility of implementing an **entrance-transit-exit procedure** in order to minimize physical contact and gathering between individuals
- Cleaning and **sanitization** must be accurate and carried out daily
- Employers should provide for all the necessary **hygiene precautions**
- DPI: use of masks, gloves and other instruments as requested by health authorities when it is not possible to keep to the one-meter distance rule

Italy

Health and safety protocol issued 14 March 2020

- Different **start times for shifts**, continuous ventilation, daily cleaning and sanitization, short stay rules and **social distancing** of at least 1 meter
- Face-to-face meetings must be **suspended** or **postponed** or organized remotely
- Any symptomatic person in the **workplace** must advise the company which should immediately **isolate** him/her and call the **health authorities**
- Health supervision must continue, **collaboration** between the company **medic**, the **employer** and **Union rep**

Italy

Simplified "Smart working"

Employers are encouraged to have all its employees (where possible) work remotely

- For the entire emergency period declared on January 31 2020 (for 6 months - until July 31 2020)
- No need for an individual agreement. Employers only need to upload the names of the employees on a governmental online platform
- Employees must disconnect from company devices for at least 11 hours
- Information on "standard" health and safety risks can be sent by e-mail to employees

Italy

Extraordinary Government Wage Support Funds

State-funded resources providing financial assistance to companies in the event of a temporary reduction or suspension of activity

The below measures cover 80% of the non-worked hours and may be granted for a maximum period of 9 weeks

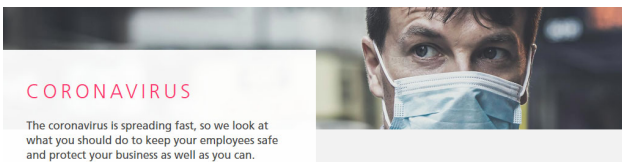
- Ordinary Wage Guarantee Fund (CIGO) and Ordinary Allowance (industry sector plus others)
- Ordinary Wage Guarantee Fund (CIGO) replacing Extraordinary Wage Guarantee Fund (CIGS)
- CIGO replacing on-going Solidarity Allowance (FIS)
- Exceptional Wage Guarantee Fund (CIGD)

Italy

Special work permits and leaves

- **Parental leave** for parents with **kids** under the age of 12: equal to 15 extra days with 50% of salary
- **Parental leave** for parents with **kids** between 12 and 16 years old for the whole closure period. Salary is not provided but right to keep the job
- Leave for parents with a **disabled** family member (regardless of age)
- Alternatively, working parents may ask for €600 **voucher** for **baby-sitting** services (€1.000 for employees in the health-care sector and police officers)
- Payment equal to €600 for freelancers and **self-employed** workers
- For the month of March 2020: €100 **Bonus** for employees working at their normal work premises during the emergency

www.theword.iuslaboris.com/hrlaw/coronavirus

**CORONAVIRUS**

The coronavirus is spreading fast, so we look at what you should do to keep your employees safe and protect your business as well as you can.