**Action on COVID-19**

**Malaysia: Guideline on the Management of Infectious Epidemics Including the Novel Coronavirus at the Work Place (February 2020)**

The recent Coronavirus (Covid-19) outbreak in the region has raised certain questions amongst employers on the dos and don'ts when dealing with potential quarantine and infection issues touching their employees. The Malaysian Labour Department has released a Guideline on the Management of Infectious Epidemics Including the Novel Coronavirus at the Work Place dated 7 February 2020 ("Guidelines"), which sets out as follows:

1. Medical Check-up

Employers are advised to direct their employees (suspected to have been exposed or infected) to immediately undergo a medical examination by a registered medical practitioner or medical officer at the expense of the employer, pursuant to section 60F of the Employment Act 1955. For employees who do not come within the Employment Act, their entitlement to expenses for such a medical examination will depend on their contractual rights.

2. Sick Leave

Employers are to allow for full paid sick leave or hospitalisation leave throughout the period of hospitalised treatment for employees who are confirmed to exhibit symptoms of the Covid-19 infection. The Minister of Human Resource emphasized that employers are encouraged to provide "extra remuneration" to employees under quarantine order who exceed their sick leave or hospitalisation entitlement and that employers are allowed to instruct any unwell employee from coming to the office by providing paid sick leave to the employee.

3. Quarantine

Employees who are placed under quarantine, including home surveillance, by an order issued by a registered medical practitioner upon their recent return from countries affected by Covid-19, should be paid in full throughout the quarantine period. Employers may not force employees to utilise their annual leave entitlement or to go on unpaid leave at any time during the quarantine period, including home surveillance.

4. Attendance at Work

Employers are not to prohibit any employee from attending work in the absence of any quarantine order issued by a registered medical practitioner to the employee.

5. Notification of a Covid-19 Infection at the Work Place

Employers are to notify the nearest occupational safety and health office of the occurrence of a Covid-19 infection, or if the same is likely to occur at the workplace, pursuant to Section 32(1) of the OSHA. Obligations under the Occupational Health and Safety Act 1994 ("OSHA")

**China: Legal Obligations for Employers in China**

Towards the end of 2019, local authorities in Wuhan, Hubei province, identified a cluster of cases of novel coronavirus (COVID-19)-infected pneumonia. Instantaneously declared a Public Health Emergency of International Concern by the World Health Organisation (WHO), the virus is spreading around the world like a whirlwind. As of 24 February 2020, novel coronavirus COVID-19 has made its presence felt in 33 countries and territories around the world, with over 79,561 confirmed cases and 2,619 tragic deaths so far.\* As the number of reported cases of coronavirus continues to soar in China (and around the world), government authorities are ramping up preparations to get to grips with this raging epidemic... and so must employers.

(\* Latest updates can be monitored at https://www.worldometers.info/coronavirus/)

China is no stranger to handling epidemics (The violent SARS outbreak that hit the mainland back in 2002). Nevertheless, the novel coronavirus COVID-19 outbreak is presenting some unique challenges for many employers in China – particularly when it comes to the treatment of their employees.

The following gives some insights into how employers can handle labour relations during this bleak period while staying in compliance with the law. Employers may have some questions vis-à-vis their rights and legal obligations on how to plot a course around these challenging circumstances.

Q1 – Are there any health and safety guidelines in place for employers?

No, there is no statutory duress on employers to have a novel coronavirus COVID-19 response plan in place. However, generally speaking, they should still put together a plan of action to augment the safety of employees and to progressively eliminate or minimise risks and hazards, so far as it is reasonably practicable. These suggestions are not mandated by the law, but every employer should still have regards to these in order to curb the very real risk of the spread of novel coronavirus COVID-19.

Here is what employers can do to start:

* Disinfect the workplace on a regular basis.
* Maintain good environmental hygiene and good indoor ventilation.
* Ensure there are sufficient supplies of appropriate facemasks, alcohol wipes, hand sanitizers, gloves, paper towels, thermometres, disinfectants, and more – with everything easily accessible to all employees.
* Set up a reliable mechanism for smooth and steady flow of information through the workplace.

Q2 – Can employers ask their employees to have their temperature tested? Yes, but it depends.

Although employers are lawfully permitted to ask an employee to undergo a medical / temperature testing to prevent the spreading of the novel coronavirus COVID-19 and ensure the health and safety of everyone in the workplace, it is only applicable so far as the employee in question voluntarily agrees to it. If the employee refuses to go through the invasive testing and the employer subjects them to disciplinary action, the employer may have to face legal risks. Employers can reasonably deny any employee who does not acquiesce with such requirement access to the workplace.

Q3- Can employers terminate the labour relationship with an employee during the outbreak?

Article 42 of the PRC Labour Contract Law clearly states, "Under any of the following circumstances, the employer shall not terminate a labour contract pursuant to the provisions of Article 40 and Article 41...during the stipulated medical treatment period of an employee suffering from illness or non-work-related injury." In simple words, this means that no employer can lay off an employee who is classed as being "under medical treatment" by the law – or someone who is currently receiving medical treatment or is under quarantine or medical observation and meets any of the following criteria:

* If the employee is confirmed infected with novel coronavirus COVID-19
* If the employee is suspected of being infected with novel coronavirus COVID-19
* If the employee has been in close contact with people confirmed or suspected of being infected by novel coronavirus COVID-19

Furthermore, according to Article 45 of the PRC Labour Contract Law, "where a labour contract has expired under any of the circumstances stipulated in Article 42, the labour contract shall be extended and be terminated upon extinguishment of the corresponding circumstances." This means the labour contract between the employer and employee shall be extended automatically until the expiration of the medical treatment or medical observation or quarantine period or until the government lifts emergency quarantine measures.

Q4 – How do employers deal with employees who cannot return to the work place?

Many employees may not be able to make it work (on time or at all) due to circumstances related to novel coronavirus COVID-19 – perhaps some of them may be under self-quarantine or simply unable to return to work due to quarantine measures imposed by local government authorities. If this is the case, employers are obliged to make reasonable arrangements to allow employees to work in a more flexible way. Here are two ways to do that:

* Employers may make arrangements for the employees to work from home by means of telephone and the Internet, and so on. However, this "work from home" arrangement shall be deemed as the employees doing full-time work, with the employers continuing to comply with their obligations under the labour contract and paying them wages and other employment-related entitlements as if they were in regular attendance.
* If work from home is not on the cards, employers may seek to reach an agreement with the employee that they take a period of statutory annual leave or unpaid leave.

On the other hand, if the employee is having reservations about resuming work without appropriate grounds, employers can terminate their employment in line with Article 39 of the Labour Contract Law. Every employee is mandated to comply with their employer's specific instructions (as long as they are reasonable), and unless there is a valid basis for refusing to attend the workplace, a refusal to adhere to the instruction can mean a breach of contract. Therefore, if the employee seriously flies in the face of the company attendance policies, employers are entitled to terminate their employment unilaterally.

Q5- What if employers suspend their business operations?

If an employer suspends business operations – whether in whole or to a certain extent – during one pay cycle (i.e., cycle that the employer usually issues paychecks to the employee), they are required to pay wages and benefits to employees pursuant to the labour contract. However, if the suspension exceeds one pay cycle, they should pay wages and benefits in compliance with the local rules for salary arrangements during "suspension of production or business" periods:

* If the employee provides normal work, employers are required to at least pay a salary equal to the current minimum wage.
* If the employee does not provide any work, employers are required to pay only the living allowances as determined in accordance with the local measures.

Q&As Regarding Employment Management Measures During COVID-19 Control Period

Question 1. Are employees who are restricted at home under supervisory medical observation for 14 days after returning to Beijing from the Hubei province, or after having been in contact with people from that area, permitted to work from home under a flexible work arrangement during this supervisory medical observation period?

In this case, employees, after returning to Beijing from the Hubei province or having been in contact with people from that area, are subject to supervised medical observation for 14 days. During these 14 days, these employees should especially pay more attention to rest and changes in their body condition. They must have their body temperature checked every morning and evening. They must not go out. Once they have any symptoms of fever, fatigue, dry cough, or other symptoms, they should report this immediately. The community is responsible for the supervised medical observation and assisting them to go to the fever clinic of the nearest health medical institution. Please be aware that the coronavirus incubation period is generally 3-7 days, usually within 14 days. In addition, infection is possible before they returned to Beijing. Under these circumstances, we recommend that companies do not arrange a flexible work at a home arrangement with the employee for the time being.

If the employee's body temperature is normal within accepted medical standards, and there is an emergency work matter which the employee can handle at home under a flexible arrangement, we recommend that the employee sign a written work consent form. During the period, for work done under these circumstances, the company should pay the overtime rate at 200% of the employee's salary.

Question 2. How should companies pay wages to employees who were unable to work during the 14 days of supervisory medical observation upon their return to Beijing? Such employees had returned to Beijing after leaving the Hubei province or had a history of contact with people from the Hubei area. In addition, these employees had exhibited an average body temperature during this period. How should companies pay such employees for their wages during this period?

In this case, the employees who remained under quarantine for the 14 days, and who tested for average body temperature, companies should pay their usual wages.

Question 3. Due to the economic impact of the coronavirus epidemic upon a company's operations or production, how should a company arrange personnel matters where a reduction in employees becomes necessary? How should the salary be paid?

For companies in the catering, accommodation, entertainment, and other industries that need to reduce the number of employees during this transition period temporarily - but as work resumes, the demand for personnel is still increasing over a long-term basis while the epidemic persists - we recommend the following.

1. Companies can first arrange for employees to take annual leave or adjust the rest days of the year. The rest days are unpaid. After the production and operations are resumed once the epidemic is over, companies can arrange the employees' work schedules to appropriately increase the weekly working hours to make up for such used rest days.
2. Companies can choose to negotiate with their employees for temporarily reducing salaries, rotating shifts, and shortening working hours.
3. The company can directly negotiate with employees to ask them to stay at home and will notify them to return to work when necessary.

Question 4. What should a company do if its employees fail to return to work or refuse to work in time?

A company should consider each situation on an individual case-by-case basis. The company should send a notice to return to work to employees via email, text message, WeChat, etc. The notice should advise the employee that if she or he fails or cannot return to work as scheduled, she or he shall provide specific reasons.

1. If there are objective circumstances or reasons that prevent an employee from returning to work, an employee must provide the company corresponding proof materials or evidence. These may include and are not limited to, proof or indication of the quarantine or medical observations relating to an infection or suspected infection of the novel coronavirus or as a close contact of the confirmed patients, the government's implementation of isolation measures or other emergency measures that prevent the employee from working. For such employees, the company shall pay wages usually until the expiration of the corresponding period or the end of the emergency measures. If they meet the conditions of sick leave or personal leave, relevant leave procedures should apply, and the company should pay wages per the applicable regulations of the company.
2. If the employee refuses to return to work and fails to provide a satisfactory reason with evidences within a reasonable time, the company shall notify in writing the employee of the corresponding consequences and urge the employee to return to work within a time limit. If the employee still ignores the notice, the company may terminate the labour contract with the employee under the labour contract, rules and regulations of the company, and after considering the labour union's comments and performing the necessary procedures.

Question 5: Does the delay in payment of wages due to the prevention and control of the coronavirus epidemic constitute a failure to pay labour compensation on time?

Article 7 of the "Tentative Provisions on Wage Payment" states: "Wages must be paid on the date agreed upon by the employer and the labourer. If such date falls upon a holiday or rest day, wages shall be paid in advance on the nearest working day. Wages must be paid at least once a month, and where a weekly, daily, or hourly wage system is implemented, wages may be paid based on weeks, days, or hours." Due to the need for epidemic prevention and control, the State Council issued a document to extend the Spring Festival holiday for three days to February 2. However, most regions had requested that, except for exceptional circumstances or need, companies resume work on a later date. For some companies, the extended date results in their failure to pay wages due for this period.

For example, if a company stipulates it will pay the salary for the previous month before the 5th of each month, but due to it the company would not be able to pay the wages on time, can employees use this as a reason to consider that the company has not paid their wages on time, and thereby according to Article 38 of the Labour Contract Law, terminate their labour contract and ask the company to pay economic compensation?

In this situation, new measures extending the date when work is resumed, mandated by the local government to prevent and control the epidemic, is the cause of the company's failure to pay wages on time. A company's failure to pay wages during the postponed resumption of work period due to the epidemic is caused by "force majeure" and cannot be attributed to corporate responsibility. Article 180 of the General Rules of the Civil Law provides that no civil liability arises where failure to perform duties is due to force majeure. Given that force majeure is the statutory exemption for the inability to perform the contract, the company has not defaulted at failing to pay wages on time, and thus not fall in the statutory circumstance of failure to pay wages on time. We suggest the company provide back pay on the first day of resuming work, or as soon when able to pay.

Question 6. After work has resumed, how should a company arrange childcare leave when an employee requests such a leave?

In response to this coronavirus epidemic, various Beijing local government bureaus, including the Municipal Human Resources, Social Security and Municipal Education Commission, have issued a "Notice on Wages of Employees During the Care of Minor Children for Delaying the Opening of School Due to Prevention and Control of the Epidemic Situation." The Notice is an emergency measure which is authorized by Articles 49 of the Emergency Response Law and 42 of the Law on Prevention and Treatment of Infectious Diseases. These Articles together authorize emergency measures in instances of public health incidents, allowing, among others, the suspension of activities, businesses, and schools.

Companies should consider exercising the following steps when considering an employee's request for childcare leave:

1. Review the eligibility of the employee applicant;
2. Ask the employee for supporting materials for review, including marriage certificate, child's birth certificate, proof that the spouse of the employee has resumed work, and evidence that the child's school has postponed opening;
3. Develop a flexible plan for the employee to use telephones, the internet, and other office methods to do moderate work at home; and
4. Arrange payment of the employee's wages based on attendance and performance of the job at home.

Question 7. Can the company seek a reduction or exemption of the rent due for carrying on operations or production on the premises during the period affected by the epidemic?

The Beijing government has issued specific preferential policies to maintain the production and operation activity of MSMEs during this epidemic crisis. One such policy is rent reduction.

1. Lease of Beijing city and district-owned premises: The February rent will be exempt for small, medium, and micro-sized companies (SMEs) that meet the following conditions. The SMEs have leased Beijing and district-owned premises and are engaged in production and operation activities under government requirements. For these SMEs, if they resume or shut down operations under government requirements or epidemic prevention regulations, and they do not lay off employees or have few layoffs, these SMEs can have exempted the rent for February. For enterprises having leased premises for office purposes, the rent for February is reduced by 50%.
2. Lease of other premises: large commercial buildings, shopping malls, and market operators are encouraged to moderately reduce rents for small and medium-sized tenants during the epidemic period, the amount of which the parties shall agree through negotiation. All districts can provide appropriate financial subsidies to lease companies that reduce or provide exemptions on rents.

The epidemic is a major public emergency that has all the characteristics of force majeure- unforeseeable, chance occurrence, unavoidable, and a natural health catastrophe. Force majeure relieves the parties of liability. It is the statutory exemption for the inability to perform the contract. While it is not the legal basis for a rent reduction or exemption here, parties are encouraged to negotiate rent reduction or exemption under principles of friendly negotiation for overcoming these mutual difficulties.

Question 8. In the context of the epidemic, can companies delay the payment of their employees' social insurance?

Social insurance, which is payable in January and February 2020, has been extended to the end of March. For industries like tourism, accommodation, catering, exhibitions, education, and training, which are greatly affected by the epidemic, after confirmation by relevant authorities, the social insurance payable during the period affected by the outbreak can be extended to the end of July. During the late payment period, there are no late fees charged. This arrangement will not affect the normal enjoyment of regular social insurance benefits, and it will not affect personal benefit records.

Question 9. What are the conditions for micro, small, and medium enterprises to qualify for post subsidies and social insurance subsidies?

Micro, small, and medium enterprises can apply for post subsidies and social insurance subsidies per relevant provisions. They must have recruited registered, unemployed persons, urban and rural people with employment difficulties in the city, signed labour contracts with a term of one year or more, and paid social insurance according to law, fully paid monthly wage of no less than 1.2 times the minimum wage in this city (RMB 2640).

Question 10. Are there any government policies supporting enterprises that are temporarily experiencing difficulties due to the impact of the epidemic?

For micro, small, and medium enterprises that are temporarily affected by the epidemic, but have prospects for development, the government will delay recovery of loans, continue to lend, and not delay making loans. For micro, small, and medium enterprises that have been severely affected by the epidemic and have difficulty repaying loans, the government may extend or renew the loans. At the same time, the government will reduce the overall financing cost by 0.5 percent in 2020 and increase the proportion of small and micro enterprises' renewed loan with non-repayment of principal by more than 20 percent. In addition, the government will provide discount loans and subsidies for bonds and financing leases for qualified innovative micro, small, and medium enterprises.

Question 11: What conditions must be met for an enterprise to receive social insurance premium subsidies?

As the coronavirus impacts business activity in China, the government is pushing support measures. To support the continued business activity of micro, small, and medium enterprises, the Beijing government is offering steps to help them. The government is providing social insurance subsidies to those enterprises that are in line with Beijing's industrial development direction policies as well as its state capital's function. For an enterprise to qualify, it must meet a core requirement of Beijing's industrial growth plans- not laying off workers. If an enterprise increases the average number of employees -- by up to 20% --as compared with the previous year, it will receive a one-time subsidy of 30 percent of three months' social insurance premiums. If the average number of employees ----increases by 20 percent or more ---compared with the previous year-- the enterprise qualifies for a one-time subsidy of 50 percent of social insurance premiums of three months. These measures are presently in force.

Question 12: How can enterprises provide specific and effective prevention and control measures for employees who resume work?

Enterprises must provide specific and effective prevention and control measures for employees who resume work at the workplace. Some practical steps and actions can include:

1. implementing flexible working systems and stagger work hour shifts;
2. leverage with technology and arrange for personnel to work from home with the use of telephone, computer, and internet;
3. implement health and safety protocol in the workplace- require checking body temperatures of employees and invitees upon entering and leaving the offices;
4. develop and promote health and safety educational programs for employees;
5. provide employees with necessary protective supplies such as gloves and respirator masks, especially if the nature of the work and duties of the employee require more social interactive contact;
6. install sanitizing stations and place sanitizing lotion dispensers at the entrances of the offices, in the office pantry, at customer reception desks;
7. regularly disinfect public areas and offices;
8. open windows for ventilation;
9. require wearing masks when two or more people stay in the same room;
10. conduct video conferencing over face-to-face onsite meetings;
11. develop a safety protocol for onsite meetings to ensure a safe and healthy meeting environment- require all participants to wear masks; limit the number of participants attending the meeting; limit and reduce the meeting to no more than an hour; increase the spacing between the seats, and keep the room well-ventilated.

**China: Key Employment Legal Issues For MNE Employers**

How can you best protect the health and safety of your employees?

Although the coronavirus originated in China, there are now cases in 18 other countries, including the UK, US, France and Germany. WHO has advised that there is likely to be further international exportation of the virus meaning that cases may appear in any country. Given that employers have an obligation to ensure a safe workplace, which includes taking steps to guard against the risk of infectious diseases, the outbreak of this new virus should prompt employers to implement a strategy to protect employees. A detailed plan can help employers and managers to comply with legal obligations and will evidence the steps the company has taken to try to protect against an outbreak at work and what steps will be followed if there is an outbreak in order to minimise and mitigate against its impact.

A sensible strategy is likely to include:

* Keeping abreast of WHO and government advice and communicating this to employees.
* Updating contact details of employees and circulating emergency contact details for key employees.
* Carrying out a risk assessment, ensuring good hygiene practices in the workplace and training employees on the key facts and risks.
* Updating any policies or procedures (eg sickness absence, dependent care leave, flexible/home working) which may be affected by an outbreak of coronavirus.
* Displaying signs of symptoms and steps employees should take if they suspect they may have been exposed to someone with coronavirus including details of the nearest medical centre equipped to deal with the virus.
* Asking employees to report to HR if they themselves have been to a high-risk destination or if they have been in contact with someone else who has been to a high-risk destination regardless of whether or not they are exhibiting symptoms.

*How should you deal with international business travel in light of coronavirus?*

Employers may want to restrict employees from traveling to China or other high-risk destinations unless necessary, as is currently being advised by a number of governments. While the Chinese government has placed the city of Wuhan, and other high-risk cities, under lockdown, and international travel to China has been reduced by commercial air carriers, the virus continues to spread. If employees must travel, they should be advised to follow infection control precautions with careful hygiene; avoiding contact with sick people; avoiding contact with animals and uncooked animal products; and wearing personal protective equipment.

In terms of employees returning from China or other high-risk destinations to their home country, the restrictions which are in place in various countries mean that individuals may be subject to screening at airports, mandatory quarantine or monitored self-quarantine. As a result, employers should put in place protocols which are likely to vary for employees who are subject to mandatory quarantine and cannot to return to the workplace; employees who under monitored self-quarantine; and employees who have travelled to a high risk destinations (or have had contact with someone who recently has) and demonstrate symptoms consistent with a cold.

For those who require quarantine, employers should encourage employees to adhere to the quarantine restrictions and either work remotely or take time off work. During any quarantine period, employers should generally expect to continue to pay the employee their ordinary wages and contractual benefits – provided they are otherwise ready and willing to work. Legal advice for the particular work location is likely to be prudent if any alternatives are being considered.

*Can you require employees to stay at home if there is any risk that they may have come into contact with coronavirus?*

Employers are likely to want to require employees who have travelled to or been in close contact with someone from a high-risk area to be placed on enforced leave or require them to work from home until it is clear they are not infected.

Employers should carefully review internal policies and contracts of employment to check whether there are any provisions enabling them to do this lawfully, and, if there are no such provisions (and depending on the applicable laws in the relevant jurisdiction), weigh up the risks of the 'quarantined' employee bringing a claim versus their general duty of care towards all employees.

Any period of time for which an employee is required to remain away from the workplace should be reasonable, which in general will be no longer than the time taken to establish that the virus has not been communicated. Unless the local regime or contract provides otherwise, employees should be paid as normal, at least until such time as they are either declared unfit for work - so that any sick leave entitlements kick in - or are able to return. Employers should also take all necessary steps to ensure that employees are able to continue to work (if they are well enough to do so) to avoid employees suffering any prejudice as a result of being required to work from home.

*Can an employer carry out medical screening if an employee has been to a high risk destination?*

The right to screen employees, and/or require them to attend medical appointments, will depend on the local legal position and contractual rights, and here employers need to balance the obligation to provide a safe workplace against obligations of data privacy and confidentiality. Whether it is proportionate and reasonable to ask an employee to undergo a screening test and the potential options if the employee refuses will also depend in part on the medical advice received in the relevant jurisdiction regarding the necessary precautions, taking into account the level of potential exposure and risk. Discrimination risks could also arise if employers single out certain employees based solely on their nationality or racial or ethnic origin.

Information gathered about the health of an employee will be classed as sensitive data in some jurisdictions, requiring special handling, so employers should always take care to keep information relating to the health of employees confidential. Data privacy issues also arise in relation to measures such as mandatory temperature testing and requiring employees/visitors to fill in travel or health declaration forms.

*What can an employer do about employees who refuse to come into work or travel?*

Employers need to balance the need to keep genuinely sick employees away from the workplace and the need to prevent unauthorized absence. While employment laws vary from country to country, employers generally have a duty of care towards employees at work and on business travel - as well as to third parties visiting the employer’s premises - in addition to obligations under local health and safety laws. Employers worldwide are expected to take proportionate and sensible action to protect employees which will include cancelling business trips where government and insurance guidelines advise against travel to specific destinations. Failure to follow such advice could put the business at risk of negligence or health- and safety related claims should an employee become infected on such a trip and this could even invalidate insurance policies.

While employers should be sympathetic towards employees who have genuine and reasonable fear that attendance at work or international travel could put them at risk, they should also be wary of employees taking advantage of the situation. Employers should ensure that their disciplinary and absence policies deal with any employees who are unreasonably refusing to attend work or travel for work through fear of contracting the virus.

*How can a multinational employer deal with contingency planning on a global basis?*

Coronavirus is an international concern and multinational employers should consider implementing advice and plans across their worldwide operations. The key issues to consider in respect of each jurisdiction will include:

* Ensuring that the employer has complied with its duty of care and obligations in respect of health and safety towards employees, contractors, clients and visitors.
* Reasonably balancing the rights and obligations of employers and employees.
* Providing employees with access to up to date information and support.
* Putting in place appropriate medical arrangements.
* Personal injury liability.

**China Provides Return-To-Work Guidance for Employers Dealing with End of Spring Festival Holidays and Ongoing Coronavirus Epidemic**

To stabilize labour relations during this period of uncertainty due to the COVID-19 epidemic, the Ministry of Human Resources and Social Security and the All-China Federation of Trade Unions (ACFTU) jointly released the Opinions on Stabilizing Labour Relations and Supporting Enterprises' Resumption of Work and Production on February 7, 2020. The Ministry of Human Resources and Social Security of the People’s Republic of China (a ministry under the State Council which is responsible for national labour polices, standards, regulations, and managing the National Social Security Fund) and the ACFTU (the nationalized organization federation of the People’s Republic of China, and the only legally permissible trade union) set forth several nonbinding guidelines designed to support employee relations:

* Employers and employees are encouraged to resolve employment issues through negotiation before employees return to work.
* In order to avoid crowds gathering, employers are encouraged to consult with employees to adopt flexible working methods, such as shift rotations and flexible commute times.
* Employers are required to provide routine cleaning on all frequently touched surfaces in the workplace, and provide employee protection measures if possible. (See Guidelines for Hygienic Protection from Pneumonia Caused by Novel Coronavirus Infections in Public Places.) Examples of protection measures might include supplying facemasks and hand sanitizer, posting signs on proper handwashing, etc.
* If an employee is unwilling to return to work and lacks a valid reason, the employer shall first attempt to persuade the employee to return to work, and if the employee without justification still refuses to come back to work, the employer can discipline the employee according to applicable law or internal policies. ◦Note: This point addresses payment, not leave balance, and most likely, employers can reasonably count these leaves against "sick leave" accrual as long as they pay full wages under each of these circumstances. For those employees who have already exhausted sick leave, employers may want to carefully review their policies and procedures before counting this type of leave against annual leave balances.
* In circumstances other than infection, close contact, or government-imposed quarantine or emergency measures, with employees affected by the epidemic and unable to resume regular work on time or employers unable to resume operations, employers are encouraged to proactively communicate with their employees. If possible, employers may want to consider arranging for employees to work from home, and if working remotely is not possible, employers may consult with employees about prioritizing to take vacation days or employer-provided leave.
* Employers that are experiencing difficulties in production and operation as a result of the coronavirus outbreak are encouraged to discuss with their employees salary adjustments, shift rotations, reductions of working hours, or other ways to stabilize their workforces. Employers that are unable to pay salaries are encouraged to consult on deferred salary payments with the workers' union or worker representatives. The Chinese government will take certain steps to reduce the burden on employers:
* Reducing recruitment costs: The Chinese government encourages employers to use online recruitment services by creating online platforms, promote remote interviews, and improve the direct point-to-point connection rate between recruiting companies and potential employees. The government will also monitor closely the service fees charged by recruiting agencies, and encourage agencies to provide free services to those employers that have been severely affected by the coronavirus outbreak.
* Reasonably sharing the cost of job stabilization: The Chinese government has encouraged employers to take advantage of unemployment insurance, the employee training subsidy, and funds for small business.
* Training: The government has opened all functions of the government-owned website China Vocational Training Online to the public, which provides complimentary trainings and teaching resources for employees.

Employers can glean from the February 7, 2020, opinions that the government expects employers to take reasonable precautions to prevent infection and to collaborate with employees in good faith on matters affecting workforces. The guidance specifies no enforcement measures, and it appears that the government is unlikely to impose fines or administrative penalties based solely on these guidelines—but employers may want to consider aligning their actions with the guidelines in case an employee or union mounts a challenge. Employers may also want to pay attention to similar publications from local authorities such as local governments, municipal and provisional human resources, and the social security bureau.

The opinions further underscore an important point applicable to employers generally: any disciplinary or workplace action affecting employees relies on properly implemented work rules.

Employers may want to use this opportunity to check their handbooks and local policies for the following:

* Proper implementation: Before an employment policy can become effective, Chinese employers (whether unionized or not) are required by law to consult with employees on it and provide them an opportunity to give feedback.
* Chinese language availability: Employment policies are difficult to enforce if they are in English only; in some localities, the Chinese language is required.
* Coverage of relevant subjects: Consider reviewing handbooks and other materials to assess whether subjects such as annual and sick leave accruals, requirements for applying for and taking leave (e.g., medical certifications and return-to-work documentation), disciplinary regulations, remote work policies, and workplace safety/sanitation have been addressed

**MYANMAR: UMFCCI and foreign chambers, international associations and companies based in Myanmar made an announcement of the meeting results concerned with COVID-19 (27 FEB 2020) Translated by UMFCCI**

UMFCCI organized an urgent meeting on current situations and difficulties regarding the impact of Corona virus outbreak. UMFCCI met with international business organizations in Myanmar including, EuroCham Myanmar, India-Myanmar CCI, Thai CCI, German CCI and China Enterprises Chamber of Commerce, KCCI in Myanmar, Chinese Textile and Garment association, KOGAM and MGMA, MIA, MTF, and Industrial zone committees.

As per the discussion of CMP manufactures, the industry has to rely on China for raw materials sourcing and facing stoppage of sourcing raw materials because of COVID-19 outbreak. The factories are concerned that the sourcing of raw materials would stop in next two weeks or in late March. The employers are trying to extend their production period till before or after Water Festival (mid-April), and the majority of factories are practicing 8 hour working days (no more OT) and closing Saturday and Sunday with pay.

In case of longer disruption of businesses operation and shortage of raw materials, the factories might have to lay off workforce or temporary lockout or shut down, which would bring about a number of undesired labour disputes related with wages.

Since Chinese travellers are highest number in Myanmar tourism industry, the outbreak of COVID-19 cut down the number of tourists. Most of small and medium firms in tourism sector are closing or temporary lock out, as well as related businesses such as hotels, restaurants, transports businesses and resorts. More than 53% of aerial tourists have been decreased and 60% of flight schedules have been cancelled or stopped.

Based on discussion in the meeting, lesson learnt from other countries practicing and current attempts, the participants’ summary below key points.

1. The government shall provide necessary supports related with unemployment benefits to those businesses who are going to temporary shut down or laying off their Labour forces.
2. Allow to calculate compensatory wage based on minimum wage in case of compensation ( rather than average rate of last three months)
3. The government shall allow the employers to encourage the workers to take voluntary without pay leave (Instead of paying compensation to annual leave/casual leave) until the settlement of Coronavirus outbreak.
4. The government shall support or finance with very little interest rate from the SSB fund to employers who are struggling from crisis and workers.
5. For business continuation purpose, the national banks shall provide loan with very low interest rate to the businesses and enterprises who are facing difficult challenges in operation.
6. To allow postponing the bi-annual minimum wage review to September instead of May as planned.
7. The government shall release and share the accurate information in timely manner to ensure the mutual understanding and good collaboration between employers and workers
8. The government shall urge the workers and trade unions not to perform industrial action such as strikes and demonstration in such difficult situation.
9. The government shall release official announcement/directives to avoid/relax the compensation to the buyers/clients for committing the contract/ belated delivery/shipment because of corona virus outbreak
10. To urge the Custom department to cooperate constructively by ensuring smooth custom clearance in jetties and warehouses.

The UMFCCI will be presenting above-mentioned 10 points to relevant ministries of the government as soon as possible and request the government to address the issues and problem solving. [END]