



Department of Industrial and Employment Relations

Frequently Asked Questions related to conditions of work during Covid-19.

Due to the COVID-19 situation, the company's operations had an adverse effect resulting in less human resources required to continue operations. In view of this, can an employer change the conditions of work of his/her employees?

Yes, as a temporary measure for the survival of the organisation and the consequent retention of jobs, following a written request from the employer, permission may be given by the Director General of Industrial & Employment Relations to temporarily change the applicable conditions of work.

Can an employer change the conditions of work without informing the employees and/or their representatives?

No, approval is granted under the premise that the employer is proposing such measures in agreement with the employees or the employees' representatives as provided by Article 42 of the Employment & Industrial Relations Act (Chapter 452).

My employees are not represented by a Trade Union and/or an employees' representative. With whom should I discuss any possible alternative solutions?

All employees must be in agreement with the conditions being proposed. Undertakings employing 50 employees and over shall make the practical arrangements necessary at the appropriate level to allow their employees to exercise the right to information and consultation. Where there is no recognised trade union, the employer shall ensure that information and consultation of employees shall be carried out with the representatives of the employees elected or appointed by means of a secret ballot from amongst all employees.

What are some of the alternative solutions an employer can propose to the employees and/or their representatives as a temporary measure in such a force majeure situation?

The most common measures being utilised by employers include:

- The utilisation of (pro-rata) vacation leave followed by unpaid vacation leave,
- The implementation of a reduced working schedule.

Can the employer enforce forced leave?

The employer may decide to resort to 'forced leave' (as provided in S.L.452.115) as long as the employer furnishes the employee/s with a written justification explaining why s/he is applying forced leave. The written statement has to be given to the employee/s before the forced leave starts to run.

Is the employer able to resort to the option of reduction of wages as a means to avoid redundancies?

Except where expressly permitted by the provisions of the Employment & Industrial Relations Act (Chapter 452), an employer shall not make any deductions nor enter into any contract with an employee authorising any deductions to be made from the wages to be paid by the employer to the employee.

In light of the current situations affecting our sales, an employer is considering reducing the working week for employees working in sales Department only. Is this allowed?

Yes, as long as the affected employees and/or their representatives are in agreement with the proposed measure and there is approval for conditions less favourable by the Director General for Industrial and Employment Relations.

As a temporary measure under Article 42, can employers change the contracts of full-time employees to stay on the payroll as part-time employees?

A contract of employment agreed on a full-time basis cannot be changed into a part-time contract.

Article 42 of the EIRA stipulates that where conditions are less favourable than those stipulated than those stipulated in the Act, then this must be put down in writing and the Director of Employment and Industrial Relations must be informed.

For how long can the employer sustain such conditions of employment if granted permission in terms of Article 42?

Approval is intended to provide temporary measures to avoid redundancies and is subject to be reviewed every four (4) weeks.

Due to a dwindling cash flow, the Statutory Weekly Allowance will not be paid out for the time being. Is this allowed?

This is not permitted by law and every employer is obliged pay to each of his full-time employees on the last working day in March and on the last working day in September of each year the Statutory Weekly Allowance. Same applies for the Statutory Bonuses to be paid between the 15th and the 30th day of the month of June and between the 15th and 23rd day of the month of December of each year.

If a worker's employment is terminated due to redundancy, can the employer engage another person to do the same work? Can the employer change his/her conditions of work?

The employer is under a legal obligation to re-engage an employee previously terminated on the basis of redundancy if the post formerly occupied by him/her becomes available within a period of one year from the date of termination and the conditions of employment shall not be less favourable than those to which he/she would have been entitled if the contract of service relating to him/her had not been terminated.

My place of work has been temporarily closed down, what happens now?

Where the place of work has temporarily ceased to operate either due to enforcement by the Government or due to a reduction in business leading for business owners to temporarily close their business, the employer should place employees on forced leave before proceeding to unpaid leave once the vacation leave entitlement has been exhausted.

While the employer may opt to give employees the entire annual vacation leave entitlement, they are only obliged to give employees leave which has been accrued. Such leave is to be taken from the employees' vacation leave entitlement and is to be paid at the employees' normal hourly rate.

Will vacation leave continue to accrue while I am not performing work but being paid the EUR800 grant?

During periods of unpaid leave vacation leave does not continue to accrue. If you are still employed but your place of work has temporarily ceased its operation then you shall continue to be employed on unpaid leave once your vacation leave entitlement has been exhausted. This shall apply regardless of whether the employer is entitled to apply for the EUR800 grant to pay employees during the time of business closure. Therefore, if you are employed but not performing work due to business closure then your vacation leave entitlement shall not accrue during such period even if you are receiving the EUR800 grant.

How can I benefit from schemes announced by the government?

Employers are to apply for schemes which they may be eligible for with Malta Enterprise who may be reached through their helpline 144. Employees may apply for schemes for which they may be eligible through the Social Security Department who may be reached through the 153 helpline.

Am I entitled to quarantine leave?

Quarantine leave may only be given to persons who are to undergo obligatory quarantine as advised by Supt of Public Health. If a health professional has advised that an employed person must be placed in quarantine then said employee shall be entitled to quarantine leave, which is to be fully paid by the employer.

The employer may then submit an application with Malta Enterprise to apply for the EUR350 grant for each quarantined employee.

If an employee is quarantined on more than one occasion that employee shall be eligible for quarantine leave for each instance that s/he is obliged to undergo quarantine.

This shall also apply for instances when the employer has requested an employee to quarantine him/herself as a precautionary measure. There are no minimum or maximum days for quarantine leave since this is determined on a case by case basis by health professionals.

Is quarantine in addition to vacation leave?

Quarantine leave is a special leave entitlement which is to be given to persons who are obliged to quarantine themselves by health professionals or who are instructed to do so by their employer which is to be given in addition to any other leave entitlement which an employee is entitled to.

Therefore this is an addition to vacation leave and not part of. There are no minimum or maximum days for quarantine leave since this is determined on a case by case basis by health professionals.

Does the employer still have to pay the employee notice if made redundant?

Yes, an employer who makes an employee redundant is still to follow regulations stipulated in the EIRA regarding notice periods. If an employer is making an employee redundant then that employee is either to be given the opportunity to work their notice period or if this is not possible due to business closure or because the employer refuses to allow the employee to work such notice period then the employer is to pay the employee for the full notice period.

Does the employee still have to give the employer notice if they choose to resign from the current employment?

Yes, an employees is still to follow regulations stipulated in the EIRA regarding notice periods. An employee is either to work the notice period or if s/he chooses not to work such notice period s/he is to pay the employer a sum equal to half the wages of the unworked notice period.

Maternity

Persons who started maternity leave before their place of work was locked down are still on maternity leave should not be limited to the grant of €800. The employer should top up the difference in salary between entitlement and grant. Should the place of work still be locked down by the end of the maternity leave, the employee shall continue to be employed on unpaid leave and be paid the grant of €800 only from thereon.

In the case where the maternity leave begins when the place of work is already closed then the employee shall only be entitled to the €800 grant given to her by the employer. The employer may top such amount up only at their discretion.

The 6-month obligatory period is to be worked after the employee resumes her duties following the cessation of the maternity leave, either on telework or once the place of work is once again operational.

Helpline: (Monday to Friday : 08:00-16:00)

- 1575 for employees
- 1576 for employers

Email: Info.dier@gov.mt