



**The American Chamber of Commerce in Hong Kong  
Law Committee**

**What are my obligations to employees who can't come in?  
Update on Hong Kong Employment Law and CoVID-19**

**20 April 2020**

In response to members' questions about the impact of the ongoing CoVID-19 pandemic on employment law issues in Hong Kong, the Law Committee has prepared the following practice points on managing employees' return to the workplace.

The Law Committee thanks Jennifer Van Dale, Partner, Eversheds Sutherland Hong Kong, for contributing to this update.

- **Maintaining a safe workplace:** Under common law and the Occupational Safety and Health Ordinance, employers are obliged to maintain a safe place of work, and cannot allow an employee who is infected (or who is likely to be infected) into the workplace.
- **Sickness allowance:** Generally, employees who are on sick leave for at least four consecutive days and have accumulated statutory sick leave are entitled to sickness allowance under the Employment Ordinance. Employees who are quarantined are entitled to sickness allowance if they have a medical certificate that meets statutory requirements.
- **Childcare responsibilities:** The Family Status Discrimination Ordinance prohibits discrimination based on an employee's family status (caring responsibilities). If a request to work from home cannot be reasonably accommodated, it may be necessary to justify why attendance is a genuine occupational requirement.
- **Employees who cannot work from home:** The Labor Department encourages employers and employees to be flexible and arrive at a mutually agreed arrangement in relation to pay in the case of employees who cannot work remotely and are not entitled to statutory sickness allowance.
- **Requiring annual leave:** The Employment Ordinance allows employers to designate dates for annual leave so long as the employer consults and gives 14 days' advance notice. There is a separate requirement for one month's notice for an entire workplace shut down.
- **Short-time or temporary layoffs:** Generally, short-time or temporary layoffs are permitted under the Employment Ordinance, but specifics will depend on the employment contract. Statutory severance may be payable for some layoffs.

(On 17 April 2020, the Hong Kong Government released additional information about the Employment Subsidy Scheme (ESS) that provides employers some relief subject to requirements. The Law Committee will issue further updates on this topic in due course.)

For more information on these and related issues, visit:

- Hong Kong Government's Centre for Health Protection's website:  
<https://www.chp.gov.hk/en/features/102465.html>
- Labour Department website:  
[https://www.labour.gov.hk/eng/news/pdf/EO\\_related\\_QAs\\_on\\_COVID-19\\_eng.pdf](https://www.labour.gov.hk/eng/news/pdf/EO_related_QAs_on_COVID-19_eng.pdf).

*These points do not constitute legal advice. You should seek advice from your legal advisors on how Hong Kong law may apply to your situation.*