



Employment & Covid-19: Frequently Asked Questions

- 1. *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 for Industrial & Employment Relations to temporarily change the applicable conditions of work, under Article 42 of CAP.452.

- 2. *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 CAP. 452.

- 3. *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.

- 4. *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.

- 5. *Can the employer apply 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. It is important to note that the utilization of forced leave does not give rise to a civil debt in favour of the employer should the leave taken exceed the annual leave entitlement of the employee, and the employer cannot make any wage deductions in this regard. It is unlawful to use any of the vacation leave entitlement of the following year.



6. *Can the employer opt for the reduction of wages 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.

7. *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. Moreover, the approval by DIER of conditions of work “less favourable” as provided in Article 42 is an extraordinary measure which supersedes specific provisions of the contract of employment for a temporary period only. Once the said permit is withdrawn, the employer is expected to continue honouring the conditions established in the contract of employment. Hence no changes to the contract of employment will be tolerated by DIER.

8. *Can an employer assign alternative work/duties to such employees whose duties cannot be fulfilled, for the time being, due to the Covid-19 pandemic?*

The employer may propose alternative duties, however the employee is not legally bound to accept.

9. *In light of the current situations affecting our sales, we are 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.

10. *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.

11. *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, however, the hours of work of the employee have been reduced after the issuance of a permit under Article 42, the payment of the government bonuses is to be calculated pro-rata.



12. 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 first utilise any outstanding leave balance before placing employees on unpaid leave.

13. Is quarantine leave an additional type of statutory entitlement?

Yes. Quarantine leave is a special leave entitlement which is to be given to employees who are abiding by an order of quarantine issued by the Superintendent of Public Health. Quarantine leave is to be given in addition to any other leave entitlement. It is not related to vacation leave in any way. Like all other leave entitlements, quarantine leave is to be calculated pro-rata for part-time work and reduced hours of work.

14. 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.

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

Yes, an employer who makes an employee redundant can either allow the employee to work the applicable notice period or remunerate the employee for the period of notice which the employee is not allowed to work.

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

Yes, the 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 period which was not worked.

17. 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, that may be reached through their helpline 144. Employees may apply for schemes for which they may be eligible through the Social Security Department, that may be reached through the 153 helpline.



18. Is the top-up compulsory?

All companies eligible for the government wage grants are to pay the top-up.

19. How does the top-up work? Different scenarios may apply, as follows:

Scenario 1: Employee is on unpaid vacation leave or reduced hours and his/her basic wage is more than €800, but less than €1,200. Here the top-up is equivalent to the difference between the basic wage and the €800.

Scenario 2: Employee whose basic wage exceeds €800 is working less hours than his normal hours, and such hours of work do not sum up to €800 in value. Here the employee will get the €800 wage grant, as well as a top-up equivalent to the difference between the basic wage and the €800, up to the €1,200 capping.

Scenario 3: Employee whose basic wage exceeds €800 is working an X number of hours which are in excess - in value - to the €800. Here the difference between the €800 wage supplement and the value of the hours worked must be paid. Failure to pay any such amount over and above the €800 constitutes unpaid work. The principle of the top-up capped to €1,200, still applies where the wage payment does not add up to the basic wage.

20. My employer is eligible for the Covid19-related government grants, however my job has not been adversely impacted by the crisis as such. Can I refuse to report at work and get the €800 wage supplement instead?

No, the employee should report to work normally.

21. What if the employer does not afford to pay the top-up?

If the employer is not in a position to pay the top-up s/he needs to inform DIER by email on info.dier@gov.mt, and the matter pertaining to the top-up will be then decided upon accordingly.

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

Any statutory entitlements, including vacation leave, do not accrue during periods of unpaid leave, unless expressly stated at law. In the case of a reduction in the hours of work, the vacation leave entitlement shall be in proportion to the hours of work.

23. Are employees on maternity leave covered by the government wage grants?

Persons on maternity leave should continue receiving their salary, subject to the same principles being applied in terms of the Covid19-related government grants.



24. What should the payslip show in such cases where the company qualifies for Covid19-related government grants?

In addition to the obligation to give an itemised payslip set out in LN 274 of 2018, any government wage grant should appear as a separate line item in the payslip. The payslip should also itemise the actual number of hours worked during that particular pay period. Also, any additional top-up paid by the employer should feature in the payslip.

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

- 1575 for employees
- 1576 for employers

Email: info.dier@gov.mt