

Covid-19: Virus for Employees in India?

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As a natural and unfortunate outcome of Covid-19 and related economic slow down, employers in India have started evaluating various options to manage costs.

The mandatory lockdown orders in entire India for at least 21 days, while the right decision, is likely to have a far-reaching impact on employers. Most business, except for essential services, remain closed. The concept of 'no work no pay' is most likely to be tested. An indicative list can help in terms of overall decision-making process.

- a. Delaying promotions and salary increments, as a result of such an unexpected economic crisis
- b. Deferring joining date due to force majeure event and expediting resignation and separation process, if previously agreed
- c. Allowing employees to take paid time off (PTO) if accrued or alternatively for future accruals
- d. Allowing employees to avail unpaid leave and furloughs, if there is no accrued PTO
- e. Withholding bonuses and retention payouts, if permitted by the contract
- f. Reducing wages (overall or certain components) by reducing hours or days per week and upon obtaining consent and following necessary legal procedures which includes prior notice
- g. Temporarily laying off workers, in compliance with law and/or as per policy
- h. Implementing voluntary retirement scheme (VRS), giving employees an option to resign or retire from services
- i. Retrenching workers, downsizing and reduction in force, based on applicable labour laws, following last-in-first-out principles, government permission (if needed) and contractual arrangements.

The above options need to be evaluated by each employer based on pros and cons, in addition to various business, HR and legal considerations. A one-size-fits-all approach does not necessarily work in such situations and there may be a need to segment the workforce as part of the process. For example, workmen and managers may be treated differently, as well as employees in factory and commercial offices, as different sets of laws may apply. Similar is the case for permanent v. temporary staff.

Contractual workers may also need to be dealt separately. The principal employer may need to work closely with its staffing services agencies who may have deployed their contract labourers. In case of independent contractors, consultants, freelancers, retainers, interns, etc. the termination provisions of the agreement need to be complied with, provided they are not employees misclassified.



The recent communication from the Indian labour authorities (both at the national and state levels) advising employers not to terminate workers or cut wages as a result of Covid-19, has made it more difficult for employers to take some of the above decisions. Trade unions are also likely to keep a close watch on any adverse actions taken by employers.

Employers who can think out of the box and care for their employees during these testing times, are the ones who will truly stand out from the crowd. If 'i' and 'u' are together, VRS may be eliminated!