

The World Health Organization declared the coronavirus disease 2019 (COVID-19) a pandemic on 11 March 2020. The COVID-19 outbreak continues to have a dramatic effect on economies worldwide, and is impacting the day-to-day operations of workplaces and lives of individuals. While every business faces unique circumstances, in this client alert, we seek to provide employers with a general overview of key considerations associated with the COVID-19 outbreak.

## Performance of Contractual Obligations

Parties that have commercial agreements in place should consider whether the COVID-19 outbreak will have an impact on the ability of a party to perform its obligations under the contract. An analysis of the specific facts, alongside the contractual terms and applicable laws (particularly mandatory laws), should be carried out to determine whether the disruption caused by COVID-19 would be considered a force majeure event excusing one or more parties from performing under the contract.

Similarly, parties that are currently negotiating commercial agreements should thoroughly consider the potential impact of the COVID-19 outbreak on the ability of each party to perform its obligations under the contract. Consideration should be given to allocation of risk in the event of failure by a party to fulfil its contractual obligations and any mandatory provisions under the applicable laws.

In Qatar, Article 171(2) of the Civil Code provides that where, as a result of an exceptional and unforeseeable event, the fulfilment of a contractual obligation becomes excessively onerous – even if not impossible – such that it threatens the obligor with exorbitant loss, a court may reduce the obligation to a reasonable level. What may par up to “excessively onerous” and “exorbitant loss” will differ from case to case, and will depend on a thorough factual and legal assessment of the parties’ commercial arrangement and the circumstances caused by the COVID-19 outbreak.

## Hearings

In Qatar, the Supreme Judicial Council announced on 15 March 2020 a temporary two-week closure of the Court of First Instance, the Court of Appeal, the Labour Dispute Resolution Committee and the Rental Dispute Resolution Committee as part of an effort by the government to reduce person-to-person interaction and contain the spread of COVID-19. Any hearings scheduled to be heard by these judicial bodies will be postponed and rescheduled to a later date. Consideration should be given to the impact, if any, of this delay on any ongoing disputes that you are involved in.

We note that the Court of Cassation has not been closed, and fast-track/urgent matters cases are still being heard. In addition, at the time of this alert, parties are still able to undertake most administrative procedures in all courts, such as filing claims and other requests. We expect this situation to remain fluid and developing, and we are continuously following up with our contacts at the courts. We would be happy to provide you with any updates upon your request.

As for arbitration hearings, the applicable rules and status quo will differ on a case-by-case basis, depending on any decisions taken by the institution administering the case (such as the International Chamber of Commerce) and the tribunal. A tribunal may decide, or a party may consider requesting, the postponement of any in-person arbitration hearings scheduled in the near future to reduce person-to-person interaction or to address temporarily imposed travel restrictions. Many tribunals are amenable to, and technologically capable of, handling certain types of hearings by telephone or videoconference, especially if the issues involved are procedural, or not particularly complex and requiring visual evidence.

## Data Privacy

Employers should consider any (often-mandatory) data privacy laws when requesting and processing personal employee information such as travel history and health reports.

Employers should keep in mind that where companies have a place of business in more than one jurisdiction, the applicable data privacy rules may differ. For companies with a presence in Qatar, consideration should be given to Law No. 13 of 2016 on Protection of Personal Data Privacy.

## Paid Leave Allowance

Familiarise yourself with local employment laws, and ensure your policies comply with any mandatory requirements. Internal policies on leave allowance and pay during leave periods should be made clear. In Qatar, Labour Law No. 14 of 2004 sets the minimum leave allowance at two weeks' full pay sick leave, followed by four weeks' half pay sick leave. Employees who have completed a consecutive year of employment but less than five years of employment are entitled to full pay annual leave of three weeks, and those with five years or more of employment are entitled to full pay annual leave of four weeks. If many of your employees have reached or exceeded their paid leave entitlement, it may be prudent to consider awarding a small additional amount of leave or temporarily implementing a more lenient remote working arrangement.

The above is a summary of the rules in relation to paid leave currently in force in Qatar. However, we do highlight the possibility that the government may temporarily amend these as part of its efforts to contain the spread of COVID-19. An example of this would be a mandatory requirement imposed by the government on all employers (public and private) to require that their employees work remotely from home. Another example would be temporarily increasing the mandatory paid sick leave allowance.

We are monitoring changes in the law, and are happy to hear from you regarding any specific requests.

## Health and Safety Protocols

Employers are required to provide healthy and safe workplaces for their employees in so far as is reasonably practicable. In Qatar, this requirement is covered under Chapter 10 of the Labour Law No. 14 of 2004. We recommend that employers encourage their employees to take note of any advice issued by the government or the World Health Organization; for example, "self-quarantine" if the employee has recently arrived from any of the countries labelled by those organisations as high risk. Employers should adapt and implement any necessary health and safety protocols to reduce the risk of infection in the workplace. One simple suggestion is ensuring hand sanitisers are easily accessible around the workplace. You should consider educating your employees by using government or World Health Organization guidance on how the virus is spread and how this can be avoided.

Make sure your company's health insurance policies are valid. For Qatari companies, ask your employees to make sure they have their Hamad Hospital health cards, in case needed.

In Qatar, the government has advised against large in-person gatherings and discouraged non-essential travel. Take the time to evaluate your business travel needs, as well as which in-person meetings or office events are essential and which can be held by telephone or videoconference, or postponed to a later date.

## Working Remotely and Technological Capacity

In an effort to combat the fast-spreading COVID-19, some countries have gone on "complete lockdown". We advise preparing for this as a possible scenario in Qatar by taking steps to ensure your business and workforce can continue to work remotely, if possible.

Indeed, on 15 March 2020, the Qatari government, by virtue of a press conference aired on TV, announced that workers over the age of 55, pregnant, or suffering from chronic diseases such as diabetes, heart disease, kidney disease or stress shall be entitled to work remotely. The government did not specify a particular time period for this rule and it is unclear whether it applies to the private sector and the government sector. We would be happy to contact the relevant authorities to request clarification upon your request. The Qatari government also announced stoppage of all public transportation; this might make it difficult for your workforce to commute to work.

Suggested measures you may consider implementing to facilitate working remotely include ensuring laptops are available for critical employees to have with them at all times. Consider whether your technological infrastructure has the capacity to support all, or most, employees working remotely at the same time. In addition, it may be worthwhile subscribing to a conference call services provider that supports multi-person telephone/video conferences.

## Focus on the Positives

Try to focus on the positives in the midst of all the negatives. Two days ago, Qatar announced the recovery of four individuals that had tested positive for COVID-19. In addition, on 15 March 2020, the Qatari government announced it would be providing a QAR75 billion stimulus package to the private sector, as well as many other incentives, such as waiving rent and utilities payments, postponement of loan payments and injecting government funds amounting to QAR10 billion into the stock exchange. The drastic reduction of air pollution and carbon emissions in China as a result of the COVID-19 lockdown has made headlines worldwide.

Take this downtime as a rare opportunity to reassess your wants and needs in what has become an era of overwhelmingly fast-paced lives and excessive consumption.

**Please let us know if you have any questions. We would be happy to provide you with a fact-specific analysis tailored to your business.**

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