

COVID-19 and Labor Law

New Rules as from January 8, 2023 (First part)



CHINA

The National Health Commission of the PRC published an announcement on December 26, 2022 which:

- Renamed the Chinese term for COVID-19 from “novel coronavirus pneumonia” to “novel coronavirus infection”, and
- Scrapped the Class A infectious disease prevention and control management against the “novel coronavirus infection” (COVID-19) as from January 8, 2023.

The State Council Response to the New Coronavirus Infection Outbreak Joint Prevention and Control Mechanism Integrated Group has published on the same day a notice to further confirm the Class B infectious disease prevention and control management against the COVID-19.

Below are some frequently asked questions and answers related to the regular management of the employees who are tested positive for COVID-19, close contacts, or wish to look after their sick family members, etc..

1.	Q:	If the employee is experiencing the symptoms of COVID-19, how to deal with the case?
	A:	<ul style="list-style-type: none"> • If the employee has very mild or no symptoms of COVID-19, the employee should continue to work at the office or work from home in accordance with the employer's internal rules. • If the employee's symptoms of COVID-19 have prevented him from normal working, the employee could apply for (a) sick leave upon submission of the doctor's medical advice for sick leave or other medical certificates, or (b) annual leave and (c) personal leave if the employee fails to obtain the aforementioned medical certificates.
2.	Q:	If the employee is a close contact, is the employee entitled to request a quarantine at home?
	A:	According to the above announcement and notice, the government will no longer take quarantine measures (including home quarantine and centralized quarantine) for the people infected with COVID-19, and no longer determine the close contact. In other words, the definition of close contact will no longer exist. Therefore, the employer has no legal obligation to give quarantine leave to the employee who contacts with a positive case. In such case, this employee shall be on duty as normal until he has symptoms of COVID-19.
3.	Q:	If the employee claims that he has to look after the family member who is infected with COVID-19, how could the employer deal with the case?
	A:	<ul style="list-style-type: none"> • The employer could request the employee to apply for annual leave or personal leave. • In case the employee has to look after his child below 3 years old, he may apply for the childcare leave. • In case the employee is an only child and his parent(s) is/are ill due to COVID-19, where local regulations allow, he may apply for the only child nursing leave.
4.	Q:	How should the salary be paid to the employee during his absence due to COVID-19?
	A:	The employer shall pay the employee depending on different cases. If the employer approves the employee's sick leave, the employer shall pay the employee according to the regulations applicable to sick leave. If the employer approves the employee's annual leave, childcare leave or only child nursing leave, the salary shall be paid as normal. If the employer approves the employee's personal leave, the employee is not entitled to any salary during this period of absence.



		<p>In addition, given a large number of individuals being tested positive of COVID-19 but having difficulty in obtaining a medical certificate, the employer may consider to implement specific rules applicable to all employees, in particular,</p> <ul style="list-style-type: none">• Once the employee is tested positive, he must send an antigen self-test or PCR result to the employer;• He can then continue to receive his normal salary within a defined number of days, for example, the first 5 days after sending his antigen self-test or PCR result;• As of the 6th day, if he is still unable to resume work, he can either benefit from sick leave for an additional 5 days, with salary paid on the basis of sick leave salary, or take annual leave or personal leave.
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