

GUIDE FOR THE PROTECTION OF THE SAFETY AND HEALTH OF EMPLOYEES

WHAT MEASURES SHOULD BE TAKEN TO PROTECT THE SAFETY AND HEALTH OF EMPLOYEES FROM COVID VIRUS COVID-19?

In accordance with Article L. 312-1 of the Labour Code, the employer is obliged to ensure the safety and health of employees in all aspects related to work and, as part of his responsibilities, he is required to take the necessary measures to protect the safety and health of employees, including activities to prevent occupational hazards, information and training, as well as the implementation of the necessary organisation and means.

Moreover, in accordance with Article L. In addition, in accordance with Article L. 313-1 of the Labour Code, it is the responsibility of each employee to take care, according to his or her possibilities, of his or her own health and safety, as well as that of other persons concerned by his or her acts or omissions at work, in accordance with his or her training and the instructions of his or her employer. In the context of the Covid pandemic,¹⁹ employers must implement the Government's instructions and recommendations within their enterprises and employees are obliged to follow their employer's instructions in order to ensure, on the one hand, their own safety and health and, on the other hand, not to endanger the safety and health of other employees in the establishment.

The employer and the employee therefore have a joint responsibility to respect and guarantee safety and health at work.¹⁸

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In concrete terms, the employer must review the circumstances in which employees may be exposed to the virus and implement the necessary measures to avoid or, failing that, to limit the risk as far as possible:

- teleworking;
- work organisation (rules on physical distances of at least 2 metres);



- equipment (protective screens or distance from counters, etc.);
- information; awareness-raising and work instructions.

Dialogue within the company is of essential importance in a crisis situation. However, meetings should preferably be held by videoconference or, failing that, by respecting the rules of physical distance. Employee representatives and designated employees help to identify risk situations and the real feasibility of the actions that the employer plans to implement.

On the basis of the legal obligation for the employer to ensure the health and safety of employees in all work-related aspects, the employer can impose telework on employees in a preventive way. In order to introduce this new form of work in the company, it is necessary to conclude:

- either an amendment to the employment contract,
- or another bilateral agreement allowing the use of telework for reasons objectively motivated by precautionary measures in the context of the fight against coronavirus.

However, the employer has in principle no obligation to grant a telework request from his employees, which he may refuse for reasons of service needs. The following measures are to be respected:

- Distance rules (minimum 2 metres) and simple and effective barrier gestures must be respected.
- The employer must ensure that the health and safety measures in place are effectively respected, that soap, hydro-alcoholic gels and, if necessary, gloves and masks are available.
- Meetings must be limited to what is strictly necessary, respectively be held by videoconference;
- Groupings of employees in small spaces must be limited.
- All non-essential journeys must be cancelled or postponed. Disinfection and frequent washing of premises, floors and surfaces are recommended.

In case of contamination or suspected contamination, please refer to the decision tree of the Ministry of Health.

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release: <https://itm.public.lu/fr/actualites/communiqués/2020/securite-sante.html>