

ENGLAND & WALES

FRANCE

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1. PROTECTING EMPLOYEES' HEALTH

Working from home

<p>May the employer impose working from home on its employees?</p>	<p>Yes, if there is a contractual power to require home working (whether express or implied). Otherwise, consent is needed. Employee conduct in actually working from home is likely to be sufficient evidence of consent.</p>	<p>Yes, it is an obligation for the employer unless the activity cannot be engaged from home.</p>	<p>Only if the employment contract or an applicable collective agreement provides for such employer's right.</p>	<p>Yes. Many state and local governments have encouraged home working for all employees and require it for employees of "non-essential" businesses. In unionized workforces, employers may be required to negotiate these policies with such unions.</p>
<p>In the event that the employer didn't previously resort to working from home, may he set it up without any particular formalism (company-wide CBA, policy...)?</p>	<p>While, technically, the employer can only impose this if there is a contractual power or if employees consent, employees are likely to consent if the alternative is no pay or redundancy and the method of obtaining consent can be very informal. Conduct alone may be sufficient.</p>	<p>Yes</p>	<p>No. The right to unilaterally instruct employees to work remotely from home must either be agreed in the individual employment contract or such right must be provided in applicable collective agreements.</p>	<p>Yes, as long as the policy is uniform and the employer does not single out employees based on protected characteristics.</p>

Mandatory leaves

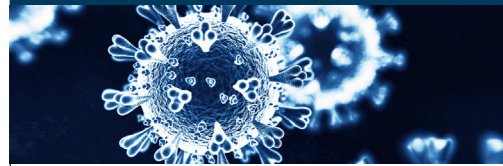
<p>May the employer impose immediate holidays or other types of leave?</p>	<p>Yes, if there is an express contractual power. Otherwise, employers can require employees to take holiday by giving notice of at least double the length of the period of holiday. An express contractual power is needed to lay off employees without pay or require them to take unpaid leave.</p>	<p>Yes, the conditions are different for paid holiday and for resting days (RTT).</p>	<p>Yes, under certain conditions.</p>	<p>Yes, under certain conditions. Employers generally have discretion to cease or restructure their operations. Employers can direct employees not to work due to safety concerns, but there are limitations on what types of leave employers can require employees to use while not working.</p>
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Paid holiday

<p>Do employers have to allow employees to carry over holiday which they are not able to take into the following holiday year?</p>	<p>Yes, where it is not reasonably practicable for employees to take their minimum entitlement due to coronavirus, they are now permitted to carry over up to four weeks holiday to the subsequent two holiday years.</p>	<p>Yes, if the employee can prove that it is the employer who prevented him from taking them</p>	<p>Yes, holidays can be carried over until end of March of the following holiday year if holidays couldn't be taken in full for reasons that are not in the responsibility of the employee.</p>	<p>Generally, no. Except in a small number of states, employees are not entitled to carry over vacation, unless the employer permits it.</p>
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Childcare

<p>May an employee who is forced to stay home to care for his/her child be asked to work remotely?</p>	<p>Yes, if there is a contractual power to require remote working. However, an employee cannot be required to work when exercising their statutory right to take reasonable time off work to care for a dependant.</p>	<p>Yes, unless the employee opted for special paid leave opened during the pandemic.</p>	<p>No</p>	<p>Yes, although the federal government recently passed legislation granting paid leave to employees who cannot work due to certain child care needs.</p>
<p>Is such employee entitled to continued payment of his/her compensation?</p>	<p>Yes, if actually working and not taking leave to care for a dependant.</p>	<p>Yes</p>	<p>Yes, for a short period (according to case law up to five business days) but there is an initiative by the legislator to extend the period in certain circumstances.</p>	<p>Yes, if the employee is continuing to work from home, he/she is entitled to be paid. If the employee is unable to work due to the need to care for a child, he/she may be entitled to paid leave.</p>
<p>May such employee request to be put on paid leave?</p>	<p>Yes, the employee can request to take paid annual leave. Under the statutory right to take time off to care for a dependant, leave is unpaid.</p>	<p>Yes, he would be put on special paid leave and be entitled to sick pay as of the first day of leave.</p>	<p>Employee can request to take annual paid leave.</p>	<p>Yes. Under recent legislation, paid leave is available to employees who are unable to work due to school closure or loss of child care.</p>



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Sick pay

Are employees entitled to pay if they contract the virus?	Yes, employees are entitled to statutory sick pay from the first day of their illness. Employees are also entitled to statutory sick pay if they are absent from work because they are self-isolating on medical advice and their work cannot be done from home (even if they would otherwise be well enough to work).	Yes, they are entitled to statutory sick pay from the first day of illness.	Yes, employees are entitled to statutory sick pay from the first day of their illness. Employees are also entitled to statutory sick pay if they are absent from work because they are self-isolating on medical advice and their work cannot be done from home (even if they would otherwise be well enough to work).	Yes, under new federal legislation, employees are entitled to Emergency Paid Sick Leave if they have contracted the virus or have symptoms consistent with the virus. Employees are also entitled to such paid leave if they are self-isolating on medical advice or subject to a state/federal/local quarantine order.
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Employees still working at the workplace

When physical presence of some employees is indispensable, may the employer order them to come to the workplace?	Yes, but only if the employer has not been ordered to close by the Government, the work cannot be done from home, and subject to the employer's duty of care in respect of its employees.	Yes, but the employer has to implement specific safety measures.	Yes, but the employer must apply its duty of care to ensure safety and health of the employee.	Yes, but the employer must also abide by any state/local government shutdowns or shelter-in-place orders and has a duty of care to ensure the safety and health of their employees. Employers must also allow employees to take paid leave under certain circumstances.
In the event that employees fear for their safety, are they allowed to stop working?	Possibly in some limited circumstances. For example, where those considered "vulnerable" or "extremely vulnerable" in relation to the virus are genuinely at risk.	Yes, under certain conditions.	No	No. Employees may not unilaterally decide not to work due to general concerns regarding COVID-19 (without facing potential discipline), but employers are generally allowing such employees to take paid or unpaid leaves.

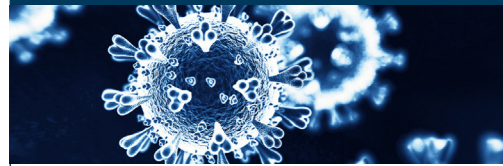
Relationships with employees' representatives

When the employer needs to carry out measures designed to protect employees' health, can consultation be postponed?	Consultation is not necessary but a risk assessment should be carried out and employees should be informed of such measures as soon as practicable.	Yes, subject to some limitations.	Only in very exceptional circumstances.	Yes, subject to some limitations and dependent on the terms of any employment contracts or collective bargaining agreements.
May the consultation take place by video conference?	See above, no consultation is required.	Yes	Yes. Even a consultation by phone would be accepted.	Yes, generally.

2. FACING A SLOWDOWN IN THE COMPANY'S BUSINESS

Partial activity: employees released from work

Is a company subject to an administrative shutdown entitled to a state sponsored scheme when it releases fully or partially its employees from work?	Yes, but only where employees are released from all work by the employer in writing, and do no work whatsoever, for a minimum period of three weeks.	Yes, upon proof that the workload/activity vanished or is reduced due to the current pandemic.	Yes	Yes. Employees who are unable to work due to a Government-ordered shutdown are entitled to benefits under state unemployment compensation systems (which have been supplemented by new federal legislation).
Is it also true for a company which is not subject to an administrative shutdown but faces significant slowdown in its business?	Yes	Yes	Yes	Yes
Does it allow the employer to shutdown only part of its business?	Yes	Yes, provided that it applies to all employees who are placed in the same situation.	Yes	Yes, though employers must, in most circumstances, consult with the unions representing those employees.



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Is prior authorisation required?	No	No, it can be requested after partial activity being implemented, within 30 days of its implementation.	No	Generally, no, though employers may be required to provide notice of the shutdown under state and federal Worker Adjustment and Retraining Notification (WARN) Acts. Employers with employees subject to collective bargaining agreements must also comply with the specific terms of those agreements and, in most circumstances, consult with the unions representing those employees.
Is prior consultation of employees' representatives required?	No, not to shutdown the business in emergency circumstances if no redundancies are contemplated as a result. Consultation may be required if redundancies are contemplated as a result of the shutdown (see below).	No	Yes	Yes, in most circumstances, employers may be required to provide notice and to consult with employee representatives.
Does the employer have to pay its employees their full salary?	It depends on the circumstances. Employers do not need to pay full salary where they have a power to lay off workers without pay or where employees consent to reduced pay and in limited other circumstances.	No, it pays 70% of the usual salary.	No, if working time is reduced.	It depends on the circumstances. If the employee is an at-will employee, the employer is not required to pay an employee who has been laid off from work. However, if the hours are reduced, an exempt employee (e.g., managers, supervisors, executives) generally must be paid their full salary if they performed any work during the designated seven-day work-week. A non-exempt employee need only be paid for the hours worked, but cannot be paid less than minimum wage.
Is the employer reimbursed for compensation paid to its employees?	Yes, up to the lower of 80% of an employee's regular wage and £2,500 per month per employee.	Yes, up to 4.5 times the minimum wage.	Yes. If working time is reduced, state scheme steps in for up to 67% of compensation shortfall.	In some circumstances, an employer may be eligible to receive loans and tax credits under federal and state legislation.
Dismissals and redundancies				
Is the employer allowed to dismiss or make redundant its employees?	Yes, although there will be collective consultation obligations where 20 or more employees are proposed as redundant within a 90 day period at one establishment.	Yes, subject to the normal statutory requirements.	Yes, subject to the normal statutory requirements.	Yes, as long as it does not violate an existing employment contract or collective bargaining agreement.
Social security contributions				
Is the employer exempted from contributions due to the COVID-19 crisis?	No	No	No	No
May the employer request an extension of the deadline for payment?	There is currently no proposal to delay payment of social security contributions but VAT payments have been delayed for the first quarter of 2020 until 30 June 2020 to relieve cash flow pressures on businesses.	Yes, up to 3 months.	Yes	Yes, employer-side social security payroll tax payments may be deferred, with half to be paid by December 31, 2021 and the other half by December 31, 2022.

Yes
 Yes, with conditions
 No