



RECENT DEVELOPMENT

# Brazil: Coronavirus (COVID-19) Employer Preparedness

**By Renata Neeser, Marilia Minicucci\* and Pamela Gordo\* on March 6, 2020**

Even though the coronavirus (COVID-19) has not yet had as much of an impact in Brazil as it has in other countries, large multinational companies with subsidiaries in Brazil have been taking some proactive measures to help prevent the spread of the disease. Employers have, for example, been suggesting that workers participate in international meetings via videoconference instead of in-person meetings. If the number of coronavirus cases in Brazil grows, however, employers may have to strengthen their prevention measures.

One action employers with operations in Brazil can take is to offer employees the ability to work temporarily from their homes until the situation settles, but there are some potential hurdles with this approach to keep in mind.

The Brazilian Labor Code establishes that the alteration of the place of work from on-site to remote must be done through a written mutual agreement between the company and its employee. In addition, the agreement must be clear on who will be responsible for the acquisition and maintenance of work equipment and infrastructure (suitable for rendering services remotely), as well as which party will bear the costs.

As this situation may become a matter of public interest due to the health risks involved, and given the lack of time to engage in all the administrative changes needed to offer the work-from-home option under Brazil's legal system, companies should consider obtaining employees' approval beforehand. This can be done by e-mail or text message, and should stipulate the employee's agreement to the temporary home-office system for the necessary time period, and under which conditions.

Even though the Brazilian labor law does not require companies to bear the home-office costs, and establishes only that whatever conditions the parties agree to must be in writing, it is recommended that if the company plans to implement a mandatory home-office work arrangement due to a risk of coronavirus contamination, the company grant employees, at minimum, an internet modem (or pays their internet expenses) and a laptop and/or cellphone, so that they have the essential means to perform their jobs. Doing so can help minimize potential labor law violation claims. Companies must also send employees guidelines on teleworking, indicating precautions that must be taken to avoid occupational illnesses and accidents, such as ergonomics tips. Therefore, companies should prepare to have that material before sending people to work from home.

In the event that the quarantine is due to an employee being sick (regardless of what illness), the employee will be entitled to up to 15 days of paid sick leave. If 15 days have passed and the employee has not yet recovered, the employer is required to inform the Social Security Institute so that a doctor from the Institute can evaluate the employee and determine if the employee is able to return to work. If the employee is unable to return to work, the employee's employment will be suspended and the Social Security Institute will pay a sick leave allowance until the employee is fit to work.

As a precaution given the current situation, if an employee who was on sick leave due to flu-like symptoms is cleared by a doctor to go back to work before 15 days have passed, the employer can ask the employee to be evaluated by an occupational doctor of its choice before returning to work to minimize the risk that other employees may become exposed or contaminated.

*\* Marilia Minicucci is a Partner, and Pamela Gordo an Associate, with Chiode Minicucci Advogados in São Paulo, Brazil*

**Information contained in this publication is intended for informational purposes only and does not constitute legal advice or opinion, nor is it a substitute for the professional judgment of an attorney.**

© 2020 Littler Mendelson P.C.

Littler Mendelson is part of the international legal practice Littler Global which operates worldwide through a number of separate legal entities. Attorney Advertising.