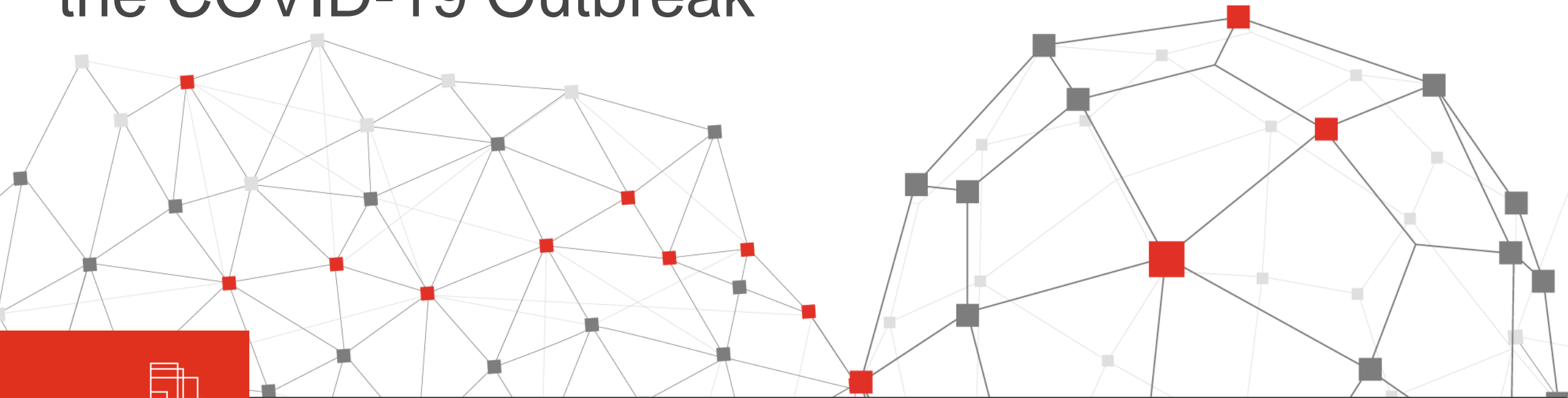


COVID-19

Insights on employment law challenges during the COVID-19 Outbreak



PwC Legal Vietnam NewsBrief

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At a glance...

The COVID-19 outbreak has been declared a public health emergency of international concern (PHEIC) by the World Health Organization, causing huge impact on people's lives, families and communities. How can you prepare your organisation and respond? Explore the implications for your business: <https://www.pwc.com/vn/covid-19>

Further, in order to assist with some employment-related issues which may be among your foremost concerns, we set out some insights about types of leave, remuneration and benefits which may be considered during the COVID-19 outbreak.



In detail

PHEIC itself and several precautionary measures taken by the state authorities to prevent the virus transmission have inevitably had a negative impact on companies' operations. Shortage of labour, varied/flexible working arrangements, regional/local policies that restrict the free movement of personnel are no doubt challenging tasks for human resources (HR) management.

Below are some insights about types of leave, remuneration and benefits which may be considered from HR management perspective during COVID-19 outbreak:

- According to Article 98.3 of the Labour Code, if an employee has to cease working ("work stoppage") due to a dangerous epidemic, both parties (employer and employee) can agree on salary during the work stoppage, but the salary to be paid must not be lower than the applicable regional minimum wage. Currently, regional minimum wages range from VND3.07m to VND4.42m per month depending on the region as prescribed in Decree 90/2019/ND-CP. Please refer to this link for further details on regional minimum wages:
<https://www.pwc.com/vn/en/publications/2019/pwc-vietnam-legal-newsbrief-decree-90.pdf>
- Annual leave in accordance with Article 111 of the Labour Code or unpaid leave in accordance with Article 116.3 of the Labour Code may also be applicable if an employee takes the initiative to apply for leave to avoid the transmission of COVID-19.
- With respect to social insurance (SI) contribution, employees taking unpaid leave of 14 days or more in a calendar month are not subject to SI participation, so they do not have to pay SI premium nor can they enjoy SI benefits for this period in accordance with Article 85.3 of SI Law. For those employees who take annual leave, unpaid leave of less than 14 days, or are in a work stoppage, both employees and their employers should still pay SI premiums.

With respect to the sickness regime as an SI benefit (i.e. where the SI Fund will pay salary for an employee's day off due to medical treatment), if employees are sick (not due to COVID-19) during the annual leave or unpaid leave period, they are not covered by the SI sickness regime according to Article 3.2(c) of Circular 59/2015/TT-BLĐTBXH, even if they obtain a doctor's certificate. During a work stoppage due to a 'dangerous epidemic' such as COVID-19 outbreak, it is unclear from the current laws if the sickness regime under SI Law will be applicable.

In order to ensure the rights of the labourers who are subject to quarantine due to COVID-19 outbreak [and also the rights of the employers, we assume], in its Official Letter No. 422/BHXH-CSXH dated 13 February 2020, Vietnam Social Security (VSS) recently proposed Ministry of Labour, War Invalids and Social Affairs (MOLISA) and Ministry of Health (MOH) allow these people to enjoy the benefits under the sickness regime of the SI Law during the quarantine period. The proposal is still being considered by MOLISA and MOH. If finalised, the SI fund (rather than employers) would pay the labourers for those days of compulsorily quarantine in hospitals, medical isolation areas or at home.

With respect to health insurance (HI) benefits, as guided in Vietnam Social Security's Official Letter No.280/BHXH-CSYT dated 31 January 2020, all cases of medical examination and treatment related to COVID-19 will be covered by HI regime in accordance with the Law on Health Insurance and its guiding instruments.

Please contact us should you need further support.

Contact us

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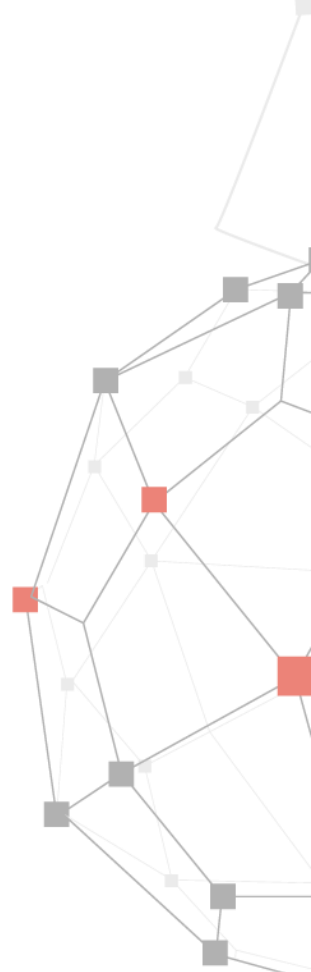
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