



Taiwan: Obligation to pay employee wages during government ordered temporary closures

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Due to the rapid spread of COVID-19 infections in Taiwan recently, the Taiwan Central Epidemic Command Center (hereinafter referred to as the "Command Center") declared (i) temporary closure of entertainment facilities (bars, nightclubs, karaoke establishments, sports gyms, amusement arcades, etc.) throughout the country from May 11, 2021, and (ii) temporary closure of exhibition facilities and sports facilities (exhibition halls, cinemas, gymnasiums, art galleries, museums, etc.) and educational facilities (libraries, lifelong learning centers, training centers, etc.) throughout the country from May 19, 2021. In addition, local governments have issued respective orders to strengthen preventive measures against infection or temporary closure measures (including temporary closure for disinfecting operations) at private business establishments other than those listed above. The scope and content of the measures taken by local governments vary from local government to local government. At present, however, no information is found indicating that factories or offices are subject to temporary closure orders, meaning that in addition to the above, basically places with large numbers of 'unspecified' patrons (e.g., markets, night markets, religious facilities, etc.) are subject to such orders. In the event of a violation of such temporary closure orders, the competent authority may impose a fine (between \$60,000 and \$300,000 New Taiwan Dollars) on the offender.

In the event of a temporary closure order issued by the Command Center or a local government, an employer is naturally required to close temporarily, however, there appears to be no reference within such orders regarding the treatment of employee wages during the closure period. According to the existing administrative notices issued by the Council of Labor Affairs, the predecessor to the the Ministry of Labor (equivalent to the Ministry of Health, Labor and Welfare in Japan), in general, employers are not required to pay wages in the event of a temporary closure due to "reasons not attributable to both an employee or an employer", unless there is a separate consultation between the employer and the employee that devises as such. In addition, according to the public notice of February 1, 2021 of the Ministry of Labor, when a temporary closure is taken due to a temporary closure order from the Command Center or a local government, the temporary closure is considered to be due to "reasons not attributable to both an employee or an employer and the payment of wages for the temporary closure period may be determined through separate

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consultation between employers and employees (regardless of whether a labor contract is not complied with). (However, in the case of a voluntary temporary closure of a business establishment that is not subject to a temporary closure order, the employer must pay the standard wages during the temporary closure period.)

As stated above, from a legal perspective, in the event a temporary closure is due to a temporary closure order, the employer will not be in breach of obligations under the labor contract even if the employer does not pay employee wages for unattended during such period, unless a separate consultation is legally concluded between the employer and employees. On the other hand, in practice, taking into account the impact of leave on employees' livelihoods, it is important to discuss with employees as much as possible so as to try to provide them with at least some portion of their normal wages.

The scope of the temporary closure order and the treatment of the wages of employees may change depending on the spread of COVID-19. Therefore, it is necessary to keep track of the latest regulatory trends.



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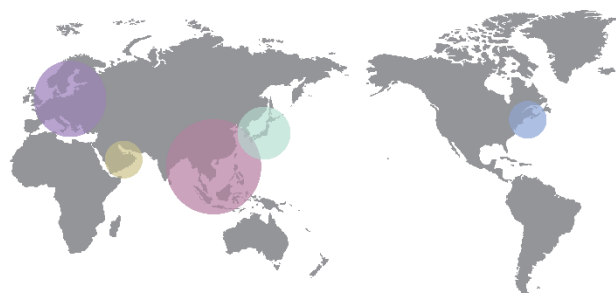


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