

S.I. 31 of 2022**EMPLOYMENT ACT***(Cap 69)***Employment (Coronavirus) (Workplace) (Temporary Measures) Regulations, 2022**

In exercise of the powers conferred by section 71 of the Employment Act, the Minister responsible for employment matters hereby makes the following regulations —

Citation

1. These Regulations may be cited as the Employment (Coronavirus) (Workplace) (Temporary Measures) Regulations, 2022.

Interpretation

2. In these Regulations, unless the context otherwise requires —

“close contact” means close contact as specified by the Ministry of Health”

“special leave” means special leave as defined under the Employment (Coronavirus Special Leave) (Temporary Measures) Regulations, 2020.

Employee choosing not to be vaccinated

3. Notwithstanding an employer's capacity to adopt differentiated workplace measures, the employer shall not terminate or threaten the services of an employee on the basis of his or her vaccination status alone.

Occupations with the highest COVID-19 risk

4. In a workplace with high risk due to workplace environmental factors, the employer may —

- (a) stagger break times in these generally high-population workplaces, or provide temporary break areas and restrooms to avoid groups of workers congregating during breaks, with workers required to maintain at least 2 metres of distance from one another at all times, including break periods;
- (b) stagger workers' arrival and departure times to avoid congregations of workers in parking areas, locker rooms, and near time clocks;
- (c) provide visual cues like floor markings, signs as a reminder to maintain physical distancing; or
- (d) implement strategies tailored to the specificity of the workplace to improve ventilation that protects workers.

COVID-19 workplace prevention control

5.(1) Every employer shall ensure that the workplace is safe, hygienic and disinfected and that there are measures in place to protect employees, as far as possible, from the risk of contracting Covid-19.

(2) The employer shall engage with workers and their representatives to determine how to implement multi-layered interventions to protect workers and mitigate the spread of COVID-19, including —

- (a) facilitating employees getting vaccinated by granting paid time off for employees to get vaccinated and recover from any side effects or working with Public Health Authority to provide vaccinations in the workplace for unvaccinated workers;
- (b) implementing physical distancing in all communal work areas for all workers;
- (c) providing reasonable accommodations for any workers in cases where the employer is providing housing;

- (d) providing workers with face coverings or surgical masks, as appropriate, unless their work task requires a respirator or other PPE;
- (e) providing safe self-isolation space if the workers are living in shared accommodation with no ability to self-isolate or living with vulnerable adults;
- (f) allowing more people who are not part of core essential services to work from home during periods of intense virus transmission;
- (g) educating and training workers on COVID-19 policies and procedures using accessible formats and in languages they understand;
- (h) conducting a risk assessment, which includes doing a risk assessment to decide what reasonable steps the employer needs to take to protect the workers and others from COVID-19;
- (i) maintaining ventilation systems;
- (j) performing routine cleaning and disinfection; or
- (k) implementing protections from retaliation and set up an anonymous process for workers to voice concerns about COVID-19-related hazards.

Testing kits

6.(1) An employer may acquire testing kits to test the workers at the workplace, on the first day of the worker becoming aware that he or she is a close contact to a person who tested positive to the coronavirus, and an employer who fails to comply shall subject its workers to be tested at a health centre.

(2) For the purposes of sub regulation (1), the employer shall

identify personnel in the organization to be trained by the Ministry of Health to use the testing kits.

(3) Where a worker's test results are negative, the worker shall resume work immediately, and shall remain under passive surveillance by the Ministry of Health.

(4) Where the worker's test results are positive, the worker shall proceed on special leave for the number of days specified by the Ministry of Health.

(5) For the purposes of sub-regulation (4), the employer shall, after the test results have been obtained, fill in and submit the required form to the Ministry of Health.

(6) Where it is not convenient for the worker to be tested because he or she is on a day off, public holiday or annual leave or for any other valid reason, the worker shall report to a health centre.

(7) The worker shall, not later than one month after resuming duty, provide the employer with an Exit Certificate from the Ministry of Health.

(8) The employer may take disciplinary action against a worker who fails to comply with sub regulation (7).

Employee not complying with COVID-19 safety measures at work

7.(1) An employer may take disciplinary action against any employee who refuses or fails to comply with social distancing or hygiene measures put in place to prevent the transmission of COVID-19 in the workplace, provided that the measures are reasonable and the employer has given clear instructions to employees about what they are required to do and the importance of following the measures.

(2) An employer may, following a fair procedure be justified in dismissing an employee who repeatedly refuses or fails to comply with the employer's "COVID-19 secure" measures, or where a one-off failure is particularly serious.

(3) Non-compliance with an instruction to self-isolate or quarantine from the Public Health Authority may be considered a disciplinary matter even if the employee is not physically present at the workplace.

MADE this 16th day of March, 2022.

**PATRICIA FRANCOURT
MINISTER OF EMPLOYMENT
AND SOCIAL AFFAIRS**
