

COVID-19 and Labor Law in Taiwan

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As the COVID-19 pandemic is raging around the world, Taiwan's labor market is inevitably affected. Its impact on the economy and industry is mainly reflected on the tourism and retail industries, as well as consumption and exports.¹ According to the statistics from the Ministry of Labor, 7.3% of workers suffered from layoffs, pay cuts, absence of pay increases, or company closures due to the COVID-19 outbreak in 2020.² However, compared to other countries, the overall impact of the pandemic in Taiwan is mild. The unemployment rate has not increased significantly, and the people with reduced working hours through labor negotiations are mainly in the manufacturing industry.³

Upon the Coronavirus outbreak in Taiwan, although the national-level state of emergency declaration has already been issued, a nationwide Level 3 alert was announced from May 15 to July 26, 2021. During the nationwide Level 3 alert period, the government took on the following three main measures:

- Wear a face mask at all times when going out.
- Barring gatherings of more than 5 people indoors and 10 people outdoors.
- Only the business and public areas that are necessary for life support, order maintenance, essential services, medical treatment, and official business continue to operate, while the rest are closed.

The alert level was lowered to Level 2 on July 27, 2021, and has remained as such. Aside from that, the "Special Act for Prevention, Relief and Revitalization Measures for Severe Pneumonia with Novel Pathogens" (the "Bailout Act") was proposed by the Executive Yuan (i.e., the Cabinet) on February 20, 2020. The Bailout Act swiftly cleared the legislative floor on February 25, 2020, and was signed into law by the President on the same day.⁴ The measures taken by the government are mainly in accordance with the Communicable Disease Control Act.⁵ Under the Bailout Act, up to NT\$ 1,050 billion have been earmarked to provide assistance with respect to the prevention of COVID-19,⁶ and the key issues of wages, compensation and leave for those under quarantine are as below:

- For individuals assigned to home isolation, home quarantine, group isolation, or group quarantine, the authorities (agencies), enterprises, schools, legal entities, and organizations shall provide disease prevention isolation leave during the isolation or quarantine period and may not treat them as absence without a reason,

1. Su M, Chung C and Yueh C. 2020. "The Impact of COVID-19 on Industries in Taiwan and Strategies for its Mitigation," *Straits Business Monthly*, 340, 4, <https://www.sef.org.tw/files/6284/4257D21F-C8BE-4712-86CF-B6A4ACDD2BE8.pdf>.

2. <https://statdb.mol.gov.tw/html/svy09/0923menu.htm>.

3. Qiu Junrong. 2020. "Challenges and Responses to the Impact of the Epidemic on the Industry and Job Market," *TAIWAN LABOR QUARTERLY*, 63, 17.

4. <https://mohlaw.mohw.gov.tw/ENG/EngContent.aspx?msgid=1051&KeyWord=> (last visited June 11, 2022).

5. <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=L0050001>.

6. <https://www.ey.gov.tw/Page/9277F759E41CCD91/c9a4b4ca-8fae-4961-b024-16aef73ec873>.

force them to take personal leave or other leaves, deduct attendance bonuses, dismiss them, or impose other unfavorable penalties. The same shall apply to family members who take leave to care for isolated or quarantined individuals.

- While employers are not required to provide full-pay to employees on epidemic-prevention leave, employers that provide full-pay epidemic-prevention leave to their employees will enjoy an income tax deduction equivalent to 200% of the salary paid to those on epidemic-prevention leave. The same shall apply to salaries for employees who take leave due to response measures conducted in accordance with orders issued by the Commander of the Central Epidemic Command Center (CECC) during their leave period. On the other hand, employees who receive no pay or subsidy during epidemic-prevention leave (either for being quarantined or having to care for a quarantined family member who is unable to take care of themselves) may apply for “epidemic-prevention compensation” with the government, provided that the applicants are in full compliance with the quarantine regulations.

Ministry of Labor has formulated relief measures for workers affected by severe special infectious pneumonia as follows:

- Postponement of payment of labor insurance premiums, employment insurance premiums, or monthly contribution of labor pension (Article 3, 4).
- Providing living allowance for self-employed workers who have been insured under labor insurance by professional trade unions since April 30, 2020, and total personal income in 2019 or 2020 did not reach NT\$ 480,000 (Article 3, 5).
- Providing “low-interest loan for workers” (Article 3, 7).

There are also some guidelines and rules on these issues, which are as follows:

- For workers who are on unpaid leave, the Ministry of Labor has amended the “Recharge and Restart Training Program” to include communicable disease control reasons stated in Communicable Disease Control Act and raised the subsidy for labors and business entities. This makes the program applicable for both workers and employers that have agreed to take 16 or more hours of unpaid leave per 2-weeks due to this pandemic and have reported this agreement to the local labor administration. Accordingly, workers can attend vocational training held by business entities, regional branches, or commissioned organizations free of charge, and receive subsidizing allowances according to the attended training hours; business entities can receive up to NT\$ 3.5 million subsidy for holding vocational training.⁷
- Regarding the wage difference between before and after taking unpaid leaves, the ‘Work at Ease’ program provides a subsidy to stabilize employment. For the workers who are insured under the employment insurance system and have been sent on unpaid leave for 30 consecutive days, they are listed and reported by the local labor administration, and the program subsidizes them monthly with 50% of their wage difference. The maximum amount of subsidy is NT\$ 11,000 per month and can be received for up to 6 months.
- To decrease the impact of the pandemic on the employers and encourage the enterprises that send workers on unpaid leave to improve their equipment during that time, the Ministry of Labor formulated “Directions for Subsidizing Business Entities to Improve Workplace Environment and Workers’ Physical and Mental Health,” which prioritizes subsidizing those whose operations have been affected by COVID-19. The categories applicable for subsidization include measures taken for the improvement of the workplace environment and workers’ physical and mental health.

7. <https://www.wda.gov.tw/cp.aspx?n=E584F68256160487> (last visited Jan. 21, 2022).

- The Ministry of Labor set and published the “Guidelines on Workplace Safety and Health Protection Measure in Response to the Outbreak of COVID-19” to prevent the spread of COVID-19 in the workplace. According to the guidelines, employers shall implement measures for checking the temperature of all personnel accessing the workplace and identifying those who may have been infected by the virus, providing employees with training on preventing the spread of the virus at the workplace, ensuring the proper ventilation and cleanliness of the workplace, and conducting regular disinfection on the premises. The health and safety of employees should be the top priority of all considerations. Employers should avoid dispatching employees to the infected areas in China unless necessary. Employees who have recently traveled to virus-affected areas either for business or personal reasons shall be closely monitored for their health status and be subject to the necessary health tracking and management measures.

While the CECC has set the social distancing at 1 meter outdoors and 1.5 meters indoors, the Ministry of Labor systematically advertised to ‘work from home’ and set the “Occupational Safety and Health Reference Guide for Work from Home,” which advises employers to carry out hazard identification and risk assessment for working from home and illustrates safety and health management precautions. However, there are still many legal issues regarding working from home, such as whether there are obstacles in the Labor Standards Act for employers to implement telework, whether employers have the right to implement telework orders unilaterally, and whether employees have the right to telework when the employers ask them to return to the office. Moreover, the management of teleworkers’ working hours, the protection of employees’ privacy and private life, the right to disconnect, and the workers’ compensation such as when the employees are injured at work or acquire an occupational disease during the implementation of telework.

The characteristics of Taiwan’s industrial development after the epidemic are: (1) the information industry has considerable developing opportunities, (2) the traditional manufacturing industry must undergo a digital transformation as soon as possible, and (3) the digital and information industries will be more prosperous due to the drive of the market and policies.⁸ Therefore, in the post COVID-19 era, due to the increased demand for remote work, the government should review whether the current labor regulations are sufficient,⁹ provide assistance in the industrial transformation of enterprises, and try to meet the needs of digital software professionals through vocational training and other policies.



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8. Supra footnote 3.

9. Lai Weiwen. 2020. “Changes and Difficulties of Work Patterns in Taiwan’s Labor Market in the Post-epidemic Era,” *TAIWAN LABOR QUARTERLY*, 63, 58.