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CLIENT UPDATE



Implications of Current Emergency Status

October 9, 2023

Following the "Iron Swords" operation, the Minister of Defense declared a special situation in the border area within a range of 80 kilometers from the Gaza Strip. As a result of the minister's declaration, the Home Front Command issued instructions and restrictions regarding gatherings and permitted and prohibited activities. These instructions, as of the time of this announcement, are expected to change, according to communications in the media, possibly extending to larger areas.

Among other things, the guidelines restrict educational activities and the closure of schools, as well as gatherings. Additionally, work activities are limited to locations that can provide access to a protected area during the appropriate sheltering period for each region.

Given the current security situation, the declaration of a special state of affairs, and the guidelines issued by the Home Front Command as mentioned above, many workers are expected to be absent from work, either by their own initiative (such as the closure of educational institutions) or at the discretion of their employer.

These absences raise questions about the responsibilities of employers towards their employees during these challenging times and in light of the evolving security situation.

Below are the important and essential points regarding the employment of workers during this period:

1. A workplace that has been declared as a "vital facility" under the law may require employees to report to work according to the provisions of the law and the order issued under it. If an employee chooses not to report to work when such an order is in effect, their absence may be considered unjustified, providing sufficient

grounds for dismissal. Vital facilities are entities defined as such by the "Economic Emergency Situation" framework. These facilities are expected to be aware of their designation in advance. The decision to classify a workplace as a "vital facility" is not subjective and is not subject to the employer's discretion.

2. Payment of salaries for employees absent from their work due to the security situation:

- a. Employers are not obligated to pay their employees' salaries when they are absent from work due to the security situation, as long as the closure of their business was carried out in accordance with the Home Front Command's guidelines.
- b. The situation is different when an employer seeks to suspend operations and close the business, regardless of Home Front Command's guidelines. In such a case, employees can be placed on vacation, but this is only applicable if employees have accrued paid time off. If an employer chooses to grant employees a vacation lasting more than 7 days, they must provide a 14-day advance notice. If employees do not have accrued paid time off, they can be placed on vacation, but the cost will be borne by the employer.
- c. Past experience has taught that, collective agreements and expansion orders are often signed to regulate the rights of employees in affected areas to receive salaries during their absence due to the special situation, following closure directives from the Home Front Command. The payment of salaries to these employees is funded by the Treasury Ministry. As mentioned, such agreements are typically signed retroactively, often weeks after the conclusion of the military operation.
- d. Of course, there is the option to allow employees to work from home or to permit them to use their accrued vacation days at their own initiative.

3. Prohibitions on layoffs and interference with the employment continuity of employees may be in place in the following cases:

- a. There is a prohibition on firing employees due to their absence from work or failure to perform their duties as a result of an order issued by the Home Front Command.
- b. There is a prohibition on firing an employee who is absent from work to care for a child up to the age of 14 (or up to the age of 21 if the child has special needs) due to the closure of the educational framework in which the child is enrolled, in accordance with the conditions stipulated by law.
- c. Of course, it is not permissible to terminate employment in cases where employees are called up for military service, work in a rescue organization, or are members of an aid organization, as defined by law.
- d. Terminations in the cases specified above are not only in violation of the law but also constitute a criminal offense.

In any case of doubt or for specific legal advice, please consult with a qualified legal professional accordingly.

It is clarified that the information provided above is general in nature, and it does not address specific circumstances. It should not be construed as legal advice or a legal opinion on any particular matter. For specific legal concerns, it is advisable to seek advice from a qualified legal professional.

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