

Client Alert

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Taiwan – Government issues first guidelines on work from home – what employers need to know

On 23 June 2021, Taiwan's Ministry of Labor (MOL) issued the "Occupational Safety and Health References Guidelines on Working from Home" ("**Guidelines**"), indicating that working from home (WFH) has become a mainstream work model regulated by the labor authority.

By way of background, prior to the COVID-19 pandemic, WFH was not common practice in Taiwan. Even during the early stages of the pandemic outbreak, few organizations implemented WFH arrangements and there were minimal regulations governing this issue since the outbreak of COVID-19 was well contained in Taiwan. However, due to a surge of COVID-19 cases in May 2021, Taiwan's COVID-19 warning level was heightened to level 3 effective 15 May 2021 (later lowered to level 2 on 27 July 2021), and most employees were forced to WFH overnight. To cope with this significant change, the MOL issued the Guidelines in late June 2021.

We foresee that even after the end of the COVID-19 pandemic, WFH or at least a hybrid working model will continue to be the new normal in Taiwan. The shift to remote work raises some complicated legal issues for employers. Employers should in particular be aware of the following points relating to the Guidelines:

- Although the Guidelines do not impose any penalty on violations of the Guidelines by the employer, they do highlight the employer's general duty to protect its employees as required under the Occupational Safety and Health Act (OSHA). Employers should comply with the requirements in the Guidelines to mitigate the risk of OSHA violations.

- In essence, the Guidelines require the employer to: (a) identify and evaluate the occupational safety and health (OSH) risks for employees who WFH; and (b) take necessary precautions to a reasonable and feasible extent. The Guidelines also provide a checklist for employers to examine whether they fulfill their duties.

- The Guidelines set forth six overarching duties of employers:
 - Provide necessary equipment, measures, and resources.
 - Help employees maintain appropriate and safe workstations at home.



- Ensure the use of ergonomically sound work equipment and provide adequate support e.g. video conferencing equipment on computers and relevant software; ensure the stable function of communication facilities such as computer network, telephone.
 - Devise mechanisms to manage employees' mental and physical health.
 - Provide education and training to maintain employees' mental and physical health.
 - Ensure smooth communication and management between managers and subordinates, and peer colleagues.
- We further highlight below some key issues addressed by the Guidelines:
 - Employers are only required to adopt precautionary equipment or measures "to a reasonable and feasible extent." This means, for example, that employers are not required to inspect every employee's workstation at home, or reimburse all their work-related expenses.
 - In light of potentially long working hours and isolation when WFH, employee mental health decline is a key OSH risk emphasized by the Guidelines. Employers should take concrete measures to protect their employees in this regard.
 - In a WFH environment, new challenges for employers and employees will include how to:
 - (a) implement and maintain smooth formal communication channels and informal social interaction among WFH employees; and
 - (b) ensure a viable working environment that allows employees to balance their work and private lives. Employers should consider how they can devise mechanisms to address this.

We recommend that employers follow the Guidelines and implement relevant policies/mechanisms as soon as possible. If a more detailed explanation or further assistance is required, please feel free to contact us. Thank you.

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