

## LEGAL ALERT No. 08

### **GUIDELINES TO BE FOLLOWED FOR THE ELABORATION OF THE “COVID-19 WORK SURVEILLANCE, PREVENTION AND CONTROL PLAN” FOR THE RETURN OF WORKERS TO THE WORK CENTER.**

Last Wednesday, April 28, the Ministerial Resolution No. 239-2020-TR was published in the Diario El Peruano, through which the technical document that outlines the minimum guidelines for the preparation of the “Plan for the surveillance, prevention and control of COVID-19 at work ”, which is mandatory for all employers prior to the return or reincorporation of workers to the workplace. Next, we detail the content of the technical document:

#### **SPECIFIC ASPECTS**

The provisions detailed below are applicable to all employers in the public or private sector, on the occasion of the restart of activities in accordance with all the regulations established by our Government.

##### **A. Preparation of the Plan for the surveillance, prevention and control of COVID-19 at work (the Plan)**

- The Plan is carried out through the occupational health and safety service and is presented to the SST Committee or Supervisor for approval within a maximum period of 48 hours.
- It must include the actions that ensure compliance with the 7 minimum OSH guidelines and include the following: (i) number of workers, (ii) the risk of exposure to COVID-19 per job, (iii) characteristics surveillance, prevention and control for exposure risk.
- It must contemplate the surveillance, prevention and control measures for the practitioners, visits or providers.
- Must be registered through the Integrated System for COVID-19 (SICOVID-19). While its implementation lasts, it will be presented at the Virtual Parties Table of the Ministry of Health (MINSa).

##### **B. The seven Basic Guidelines for the elaboration of the Plan**

- **Cleaning and disinfection:** Cleaning and disinfection of the workplace (environments, furniture, equipment and instruments or others) must be carried out prior to the start of work. The Plan must determine the process to be followed, the supplies to be used and the frequency of the service.

Cleaning personnel should be trained and provided with protective measures.

- **Evaluation of the worker's health condition:** The health professional of the occupational health and safety system, prior to the return or reincorporation of the personnel to the workplace, must manage the following: (i) identify the risk of exposure to COVID-19 of each job; (ii) apply the COVID-19 Symptom Sheet; (iii) taking control and recording the temperature of personnel upon entering the workplace; (iv) apply serological or molecular tests to workers whose positions are very high, high or medium risk, being optional for low risk cases. Likewise, a procedure is established for suspected cases of COVID-19.

The frequency of the tests is carried out by the health professional and the cost is assumed by the employer.

If a suspicious case is detected (in low-risk positions), you must: (i) apply an epidemiological file; (ii) serological or molecular test, (iii) identification of contacts at home; (iv) communicate to the health authority of its jurisdiction; (v) carry out daily clinical follow-up.

- **Hand washing and disinfection:** The employer must: (i) ensure the quantity and location of the hand washing points or alcohol gel in the workplace (one necessarily located at the entrance); (ii) establish as a rule the laundering prior to admission; (iii) avoid contact of hands with taps and handles; and (iv) place posters above the point for proper washing.
- **Raising awareness of the prevention of contagion:** Among other measures, the OSH professional must ensure: (i) provide official information about the coronavirus and the means of protection; (ii) expose the importance of hand washing; (iii) use of a mandatory mask throughout the day; (iv) raise awareness of the importance of reporting symptoms; (v) communication channels for any staff concerns.
- **Preventive measures for collective application:** Among other measures, the employer must guarantee: (i) ventilation of the rooms, (ii) a distance of 1 meter between people, (iii) permanent use of a respiratory protector (surgical or community mask); (iv) establishment of virtual and, by exception, face-to-face meetings with the use of a mask and distance; (v) cleaning and disinfection of footwear upon admission; (vi) protection of personnel providing customer service; (vii) collection points for used protective equipment.
- **Personal protection measures:** The employer must guarantee the availability of personal protection equipment and its adequate supply. It also gives the indications for the proper use of these.
- **Surveillance of worker health:** During the Health Emergency, health control must be permanent in the following aspects: (i) temperature control of personnel at the entrance and exit of the workplace (for very high risk positions, also in the middle of the day; (ii) indicate a medical evaluation to every worker with a temperature above 38 °; (iii) verification of other risk factors; (iv) preventive measures for mental health; (v) protection special to disabled personnel.

Every worker with fever or symptoms is classified as a suspect and the occupational health professional must: (i) apply a symptom sheet; (ii) apply serological or molecular tests; (iii) identify contacts in the workplace; (iv) taking tests from the contacts of the workplace; and (v) communicate the case to the health authority of its jurisdiction.

### **C. Considerations for returning and reincorporation to work**

- The employer establishes a return to work process for those workers who have complied with the quarantine and declare that they have not presented or present symptoms of COVID-19.
- The employer establishes a reincorporation process for those workers who have a high epidemiology COVID-19, depending on mild cases, they reincorporate after 14 days of quarantine and if they are moderate or severe, after 14 days of medical discharge.
- In the case of workers who make up the population at risk due to being over 60 years old or suffering from any clinical disease, the employer maintains home quarantine and remote work, in accordance with current regulations.

### **D. Considerations for the review and reinforcement of workers in work procedures with critical risk according to the job position**

- For positions whose tasks imply a direct effect on the health of the workers due to the fact that they were not carried out during the quarantine, the employer reviews, updates or reinforces the training of the technical procedures that were carried out prior to the cessation of said activities and, if necessary, reinforces training in the use of dangerous equipment and / or tools used for the corresponding tasks.

## **COMPLEMENTARY ASPECTS**

- The measures developed are the minimum that the employer must ensure. This does not limit incorporating additional measures according to the economic or productive activities that it carries out.
- The attached annexes are approved: (i) Health Professional of the Occupational Safety and Health Service by company size; (ii) COVID-19 Symptom Symptom Sheet for return to work - Affidavit; (iii) Personal protective equipment for jobs with risk of exposure to COVID-19, according to the level of risk; and, (iv) Structure of the “Plan for the surveillance, prevention and control of COVID-19 at work.

## **ACTIONS BY SUNAFIL**

### **A. Power to order the temporary closure of an area of the productive unit or the productive unit, stoppage and / or immediate prohibition of work**

In the event of an outbreak at the workplace, the health authority immediately informs SUNAFIL so that it can arrange - if applicable - the immediate closure

or stoppage of work..

## **B. Application of administrative fines for offenses to specific regulation**

- In accordance with the duty of prevention provided by Law No. 29783, the Occupational Safety and Health Law, the employer is liable for the infractions that are committed for the breach of the obligation to guarantee the safety and health of the workers, of the people who provide services, personnel under labor training modalities, visitors and users, as well as workers of companies and contracting and subcontractor entities that carry out activities in their facilities.
- In accordance with Law No. 28806, the General Labor Inspection Law, the following constitute very serious infractions:
  - Failure to adopt preventive measures applicable to working conditions from which there is a serious and imminent risk to the safety and health of workers and people who provide services within the scope of the work center.
  - Failure to monitor the health of its workers.

With this, not complying with the provisions of the R.M. 239-2020-MINSA, would qualify as a labor offense, and the employer may be sanctioned with administrative fines.