



COVID-19 GETTING BACK TO BUSINESS

Presented by M. Hamel-Smith & Co.

Friday 22 May 2020

COVID-19 RETURNING TO WORK FAQS FOR EMPLOYERS



Catherine Ramarine
Partner

IN THIS PRESENTATION WE WILL COVER:

- **Health and Safety In the Workplace**

Leave Requests

Working From Home

HEALTH AND SAFETY IN THE WORKPLACE

General duty to take **reasonable steps** under:

- The Common law
- Occupational Safety and Health (“OSH”) Act

HEALTH AND SAFETY IN THE WORKPLACE

- CMOHs and the Public Health Inspectorate – a new regime?

WHAT DO EMPLOYERS NEED TO DO?

- Develop a **Risk Assessment/Protocol**
- **Disseminate** to Employees
- **Instruct and Train**

DEVELOPING A RISK ASSESSMENT/PROTOCOL

- Alternative Working Arrangements
- Physical Distancing
- Hygiene
- Personal Protective Equipment
- Monitoring/Reporting
- There is no 'one size fits all' solution. The measures that should be taken will depend on each employer's particular industry and operations

A CAUTIONARY TALE?

OF JAMAICA'S 500+ CASES, OVER 300 CAN BE TRACED
BACK TO A SINGLE WORKPLACE.

LEAVE

- Apply existing policies **flexibly, reasonably** and **compassionately**
- Abuse of Leave vs. Health and Safety Risks and Obligations

WORKING FROM HOME

- In a post Covid-19 world, we may see an increasing trend towards Working From Home.
- There are no laws that specifically govern remote workers. However, they will generally be subject to the same rights and protections that apply to all employees.
- It is strongly recommended that employers develop and implement a **Working From Home Policy**

REMUNERATION

- Overtime
- Reimbursement of Expenses
- Provision of Equipment

HEALTH AND SAFETY

- An employer may be liable for any injuries that an employee sustains **during the course of their employment**, if that employer did not take **reasonable steps** to prevent such injuries from occurring. The main difference is that what amounts to taking 'reasonable' steps is likely to be different for remote workers vs. those working out of the employer's premises.
- What 'reasonable steps' should an employer take? It starts with the **Risk Assessment**.

INJURIES THAT MAY ARISE

- Defective equipment supplied by the employer
- Poor ergonomic practices
- Employees with pre-existing medical conditions
- Mental disorders resulting from stress
- 'Slip and Fall' accidents

INSURANCE

- Coverage
- Disclosure

DATA SECURITY

PRODUCTIVITY AND TIMEKEEPING

- Employers should have guidelines but may need to be flexible in their expectations.
- It is also important to be alert to any potential signs of distress or exhaustion.

QUESTIONS

COVID-19 PRICING, COMPETITION AND UNFAIR PRACTICES



Fanta Punch
Partner

INTRODUCTION

- *The Environment*
- *Avoiding excessive pricing and unfair practices*
- *Managing the risk of anti-competitive conduct*
- *Conclusion*

The Environment

Why is competition important?

- *The benefits of competition*
- *Focus of regulators*

Avoiding excessive pricing and unfair practices

- Price-gouging and excessive pricing
- Abusing positions of strength
- Adopting a proactive approach

Avoiding excessive pricing and unfair practices

What is price-gouging?

- *Price-gouging occurs where goods or services are sold at prices far higher than would be considered fair or reasonable.*

Avoiding excessive pricing and unfair practices

Indicators of abusive or excessive pricing may occur where there is:

- *A drastic price increase for long-existing products.*
- *An increase in pricing that is not related to operating costs or other market-driven factors.*
- *A high demand inelasticity for certain products.*

Managing the risk of anti-competitive conduct

- Avoiding anti-competitive arrangements
- Dealing with mergers

Conclusion

Important to remember:

1. *Do **not** neglect competition compliance during the crisis.*
2. *Do **not** engage in conduct that remains prohibited*
3. *Do **not** be tempted to circumvent merger control filings/approvals*
4. *Be aware that authorities are watching for exploitative practices, such as excessive price increases.*

THANK YOU

COVID-19 STRATEGIES FOR MAXIMIZING DEBT COLLECTION



Cherie Gopie
Partner

Introduction:

Financial problems have undoubtedly arisen for companies as a result of the coronavirus (COVID-19).

Collecting unpaid invoices is therefore likely to be top priority for many businesses, but what impact does the pandemic and the resulting measures have on your ability to collect debt through legal means?

We provide some guidance on your options below.

Solidify your Grounds for a Claim

Limitation Period

- Legal action must be commenced within four years of the accrual of the cause of the action

Written confirmation of your claim is important.

- Because a debtor has written down a proposal on paper, you have an acknowledgement of the claim.
- It is better if the debtor explicitly acknowledges the claim in writing. By doing so, the debtor confirms that he owes the entire outstanding claim.

Recommended Strategies and Steps to effective debt collection

Payment
Proposal

Negotiate

Solve Disputes
expeditiously as
possible

Investigate the
reason for non-
payment/postpo-
nement

Deferral of
payments for a
limited time

Examine the
debtor's capacity
to pay

Consider the
value of the long-
term relationship

Demand
additional
securities

Force Majeure

The party seeking to rely on the force majeure clause will bear the onus of proving that the force majeure event has occurred to the extent that performance is significantly delayed or altered (depending on the wording of the clause).

Recourse to the Courts

The Court suspended from the 16th March 2020 judicial filings except in urgent cases but as of the 15th June 2020, all filings are to be resumed.

Once you get judgment from the Court, you may have to enforce that judgment if the debtor refuses to acknowledge the court order and liquidate the debt. The following are common modes of enforcement:

Writ of Fieri Facias

Attachment Proceedings

Summons for Sale

Creditor's Winding Up

Charging Order

Judgement Summons

Bankruptcy Proceedings

THANK-YOU

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