

COVID-19 UK Employment Update: Emergency Lockdown Legislation

As we reported in Monday's bulletin, the UK's new lockdown will commence just after midnight tonight and is projected to last four weeks.

Emergency regulations covering the lockdown – [here](#) – are due to come into force tomorrow (5 November).

These regulations, which only apply to England, cover a lot of ground, but one crucial element is that it will be a criminal offence for persons to leave their home “without reasonable excuse”. The regulations set out a number of exceptions to this rule such as for exercise, certain types of shopping and education. One of the exceptions relates to leaving the house in order to attend work. This allows a person to leave or be outside their home “for the purposes of work...where it is not reasonably possible for [them] to work...from home”.

This is a stricter test than the one set out in guidance that the Government published on Saturday, which says that “everyone who can work effectively from home must do so” (details [here](#)).

Whilst many workplaces will not be *forced* to close (although some, such as non-essential retail premises will be) the new regulations will mean that a great many workers will effectively be prevented from going to work during the four-week lockdown, so long as it is reasonably possible for them to work from home.

There is also liability for companies if they consent or connive in an offence, for instance if an employer allows or seeks to pressurise its workers to attend work when it is reasonably possible for them to work from home. Both the employer and its officers could be guilty of an offence in such circumstances. There are also potential employment law and employee relations risks involved with requiring or attempting to require an employee or worker to do something which is against the law, including the potential for employees to treat it as the basis for a constructive dismissal claim.

Related Capabilities

- Labor & Employment
- Labor & Employment Guides
- Europe

Employers should therefore consider carefully – and urgently – the extent to which their staff should be required to work from home for the duration of the lockdown, if they have not done so already.