
COVID-19: Grand-ducal regulation of 17 April 2020

On 17 April 2020, the Luxembourg government published a Grand-Ducal regulation that introduces a series of measures regarding employees' health and safety. The OGBL actively participated in these discussions between government, unions, employers, ITM and occupational health, with the objective to protect employees.

As a reminder and in accordance with Article L. 312-1 and 312-2 of the Labor Code, the employer is obliged to ensure the safety and health of employees in all aspects related to work and, within the framework of his responsibilities, he must take the necessary measures to protect the safety and health of employees, including: preventing risk, providing information, offering training and providing the necessary organization and means.

In accordance with Article L. 313-1 of the Labor Code, it is the responsibility of each employee to take care, as far as possible, of his safety and health as well as of those of the other persons concerned as a result of his acts or omissions at work, in accordance with his training and the instructions of his employer.

The grand-ducal regulation is applicable from 17 April 2020 and supplements the provisions of the labor code in this area and the grand-ducal regulations already adopted in this field.

Art. 1

(1) Throughout the duration of the state of crisis as fixed by the law of 24 March 2020 extending the state of crisis declared by the grand-ducal regulation of 18 March 2020 introducing a series of measures in the fight against Covid-19, and without prejudice to the provisions of Book III of the Labor Code, the employer must:

- 1. take appropriate measures to protect the safety and health of employees referred to in article L. 311-2, point 1 of the Labor Code, ensure that these measures are adapted to account for the exceptional circumstances linked to the COVID-19 epidemic and contribute to the improvement of existing situations to deal with this COVID-19 epidemic;*
- 2. avoid the risks and assess any risk to the safety and health of employees which cannot be avoided in these exceptional circumstances linked to the COVID-19 epidemic;*
- 3. regularly renew the assessment referred to in point 2 and in any event when any change occurs in the conditions related to the COVID-19 epidemic;*
- 4. determine, on the basis of this assessment referred to in point 2, the measures to be taken in relation to these exceptional circumstances linked to the COVID-19 epidemic;*
- 5. limit, if necessary, the number of employees exposed to risks or likely to be in relation to these exceptional conditions linked to the COVID-19 epidemic;*

- 
6. *inform and train, in collaboration with the staff delegation, the employees on possible risks for safety and health, the precautions to be taken, the wearing and use of protective equipment and clothing as well as on the prescriptions with regard to hygiene which were taken in the context of these exceptional circumstances linked to the COVID-19 epidemic and give them the appropriate instructions;*
 7. *post signs indicating the risks and the preventive measures taken in relation to these exceptional circumstances linked to the COVID-19 epidemic;*
 8. *set up workplaces and other spaces or work stations in which employees are likely to exercise their professional activity according to these exceptional circumstances linked to the COVID-19 epidemic;*
 9. *supply collective protection equipment which ensures the protection of employees in relation to other people;*
 10. *provide employees with personal protective equipment, including appropriate protective clothing, adapted to the exceptional circumstances linked to the COVID-19 epidemic;*
 11. *ensure that protective clothing and equipment are:*
 - *placed correctly in a specific place and stored away from other clothing,*
 - *cleaned after each use, or, if necessary, destroyed;*
 12. *provide employees with appropriate sanitary facilities, allow them access to a water point, soap and disposable paper towels or provide them with disinfectant products;*
 13. *ensure that employees respect an appropriate physical distance and, failing this, that employees wear a mask or any other device allowing the nose and mouth of a natural person and, if necessary, other personal protection equipment;*
 14. *ensure that spaces and floors are regularly cleaned;*
 15. *ensure that work surfaces are cleaned and disinfected.*

(2) The employer shall take the appropriate measures to ensure that the employers of employees of outside companies or establishments working in their company or establishment receive adequate information concerning the points referred to in paragraph 1, intended for the employees in question.

(3) When, in the same workplace, the employees of several companies are present, employers must cooperate in the implementation of the provisions referred to in paragraph 1 relating to occupational safety and health and, given the nature of operations, coordinate their activities for the protection and prevention of professional risks, inform each other of these risks and inform their respective employees or their representatives.

(4) The measures concerning occupational safety and health referred to in paragraph 1 must in no case entail financial charges for the employees.

Chapter 2: Rights and obligations of employees

Art. 2.

(1) During the period of the crisis, and without prejudice to the obligations referred to in article L. 313-1 of the Labor Code, employees must:

1. *correctly use the protective equipment and protective clothing made available to them within the exceptional circumstances linked to the COVID-19 epidemic and apply the required hygiene measures;*
2. *report immediately to the employer and / or designated employees and safety and health delegates, any work situation which they have reasonable grounds to believe it poses a serious and immediate danger to safety and health in the context of the COVID-19 epidemic.*

(2) Without prejudice to Article L. 312-4 of the Labor Code, an employee who, in the event of a serious, immediate danger which cannot be avoided, leaves his workplace or a dangerous area, cannot be prejudiced by it. The termination of an employment contract made by an employer in violation of the provisions of this paragraph is abusive.



Chapter 3: Control and sanctions

Art. 3.

Violations of the provisions of Articles 1 and 2 are investigated and registered by the members of the Labor and Mines Inspectorate as well as by the occupational doctors of the occupational health and environment division.

The powers of the Labor and Mining Inspectorate are exercised in accordance with Articles L. 612-1 to L. 615-2 of the Labor Code.

The powers of the occupational doctors of the occu-

pational health and environment division are exercised in accordance with the provisions of the amended law of 21 November 1980 on the organization of the directorate for health.

The occupational health and environment division jointly ensures with the Labor and Mining Inspectorate, each in its own way, the application of the provisions of this Grand-Ducal Regulation.

Violations of the provisions of Articles 1 and 2 are punishable by the penalties provided for in Article L. 314-4 of the Labor Code.

SYNTHESIS

Obligations of employers

- take appropriate measures to protect employees
- limit, if necessary, the number of employees exposed to the risks linked to the COVID-19 epidemic
- inform and train, in agreement with the staff delegation, the employees on the risks linked to the COVID-19 epidemic
- display signs indicating the risks and protective measures to be observed
- accommodate workplaces
- provide personal protective equipment to employees (respiratory protection, protective clothing, etc.)
- provide water points, soap and disposable paper towels or provide disinfectants (hydro-alcoholic gel etc.)
- provide masks or other respiratory protection devices
- ensure regular cleaning of spaces and floors
- ensure the cleaning and disinfection of work surfaces

Rights and obligations of employees

- correctly use protective equipment and clothing and apply the required hygiene measures
- report immediately to the employer and / or designated employees and to the safety and health delegate, any situation which they have reasonable grounds to believe that it poses a danger to their safety and health

Ensure the safety of the employee in the event of serious danger (Art 2 of the GDPR of April 17, 2020)

In the context of the health crisis caused by COVID-19, the OGBL claimed that each employee may, in the event of danger to his health and safety, be entitled to a right to ensure his safety in the event of danger to his health.

Following negotiations between the unions, the government and the employers and also thanks to the action of the OGBL, a grand-ducal regulation reflects this measure.



The grand-ducal regulation of April 17, 2020 provides in article 3 that an employee who, **in the event of serious, immediate danger and which cannot be avoided, leaves his workplace or a dangerous zone, cannot suffer any prejudice.** The termination of an employment contract made by an employer in violation of the provisions of this paragraph is abusive.

We invite each employee who finds himself in a dangerous situation, first of all to put himself and his colleagues in safety and to immediately contact his immediate supervisor as well as his OGBL delegates so that the situation can be resolved.

Control and sanctions

Violations can be investigated and registered by the ITM, the occupational doctors of the occupational health and environment division.

Violations of the provisions of the RGD are punishable by the penalties provided for in Article L. 314-4 of the Labor Code.

Any violation, ..., of the regulations and decrees adopted in their execution is punishable by imprisonment of eight days to six months and a fine of 251 to 25,000 euros or one of these penalties only.

Any violation of the provisions of article L. 313-1, of the regulations and decrees adopted in their execution is punished with a fine of 251 to 3,000 euros.

Health and safety protection is the primary issue in this health crisis situation. The OGBL and all of its delegates are at your disposal for any questions or problems. Do not hesitate to contact your OGBL delegates or the OGBL HOTLINE at +352 2 6543 777 or by email info@ogbl.lu.

USEFUL NUMBERS

HOTLINE OGBL +352 2 6543 777

ITM +352 24 77 61 00

USEFUL LINKS

Grand-ducal regulation of 17 April 2020

<http://legilux.public.lu/eli/etat/leg/rgd/2020/04/17/a304/jo>

COVID-19 website of the ministry of health

<https://coronavirus.gouvernement.lu>