

New fines and criminal records for self-isolating workers and their employers if they attend workplace

Employers will now commit a criminal offence and face fines if they knowingly permit a worker to attend the workplace after they have been told to self-isolate.

Workers who fail to tell their employer they are required to self-isolate will also commit a criminal offence and face fines. So far these new regulations only apply to England and they came into force at midnight on Sunday 28 September Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) Regulations 2020.

This requirement to self-isolate applies to anybody who has:

- Been notified that they have tested positive for COVID-19 or lives with someone who has tested positive;
- Has been advised by a local authority or public health official they have been in close contact with someone who has tested positive; and
- Fines (so far) will not apply to anybody who fails to self-isolate after they have been informed via the new NHS COVID-19 smartphone app that they have been in close contact with someone who has tested positive.

Workers must notify their employer that they have been told to self-isolate before they next attend the workplace and give their employer the self-isolation start and end dates (Regulation 8). The rules also apply to

agency workers who must tell either their employer, their employment agency or their principle. Whoever is informed by the agency worker must pass the information onto the other two parties.

These new Regulations also place a responsibility on employers to prevent workers whom they know must self-isolate from working (unless they can work from home). Many workers will only be entitled to statutory sick pay whilst self-isolating which may encourage some not to tell their employer they have tested positive or received a formal notification. At the time of writing it is not yet clear what measures authorities will be taking, if any, to inform employers of their workers' positive results.

As Regulation 7 places criminal liability on employers who 'knowingly' allow self-isolating workers to come to work we recommend that businesses take the following steps:

- Notify in writing all workers that they must inform their line manager and/or HR that they are required to self-isolate and the dates of their self-isolation period. A failure to inform will be considered a disciplinary offence as well as a criminal one.
- Keep a careful record of the worker's reported self-isolation records and dates they attend the workplace.

- Fixed penalty fines for both employers and individuals for breaches of Regulation 7 and Regulation 8 respectively will start at £1,000 for the first fixed fee; £2,000 for the second; £4,000 for the third and £10,000 for all subsequent breaches.

Author
Employment Team
employmentunit@clarkslegal.com
T: 020 7539 8000
Clarkslegal LLP

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