



HR Legal Alert

March 2020

Weinhold Legal

The State of emergency and its consequences

Emergency measures and their impact on labour relations

CLOSURE OF ESTABLISHMENTS

We would like to update our previous labour law alert, given the recently adopted measures (e.g. Government Resolution No. 211 of 14 March 2020, promulgated under No. 82/2020 Coll., and Government Resolution No. 215 dated 15 March 2020), which means, inter alia, the de facto temporary termination of some establishments.

MoLSA issued information in connection with emergency measures restricting the operation of the establishments to the public on March 14, 2020, in which it describes how to proceed with compensation claims for lost earnings for employees in connection with workplace closures (information in Czech [here](#)). According to the MoLSA:

- ▶ if the employer does not allocate work to an employee as a result of emergency preventive measures (closure of the workplace), it will be an obstacle to work on the employer's part within the meaning of Section 208 of the Labour Code; for which the employee is entitled to wage compensation equal to average pay.
- ▶ if the employee can work despite closing the establishment (e.g. inventory work, running an e-shop, dispensing through a window) or temporarily agreeing with the employer to change the type of work (e.g. painting and cleaning the establishment); the employee will be entitled to wages.
- ▶ Although the MoLSA does not mention this, if an employer has multiple establishments, some of which are closed and some are not, it should be possible to "transfer" employees between establishments, e.g. if they have the same place

of work in an employment contract (e.g. Prague) and the same type of work (e.g. salesman), or if it is possible to agree with the employee on such a temporary "transfer".

Other options

As mentioned earlier, the following steps may be applied under the conditions below.

HOME WORK - if the type of work permits and the parties so agree, and provided that the health of the employee allows it. The employer should compensate employees any extra costs of doing their work at home. As far as possible, the government recommends the use of work from the place of residence as a last resort.

HOLIDAY - the employer may agree with the employee to take leave or order leave to be taken, however, at least 14 days in advance, unless a shorter period for ordering leave has been agreed. The government also recommends that employees support the taking of holidays; however, certain professions are prohibited from taking leave.

OBSTACLES TO WORK BY RESTRICTING SALES (partial unemployment) - An employer can use them if they cannot allocate work to an employee within a week's working hours due to a temporary reduction in the sales of his products or a demand for the services he provides. The prerequisite is an agreement between the employer and the trade union organization, or an internal regulation with the employer where the trade union organization does not operate; these documents shall specify the amount of wage compensation granted at least 60% of the average pay, it is appropriate to specify the range of employees to whom it applies, the conditions and the time at which such compensation is to apply, and the extent of working time to which this obstacle may apply.

QUARANTINE - Forced closure of an establishment may be assessed as quarantine under Section 347 par. 4 of the Labour Code, if an emergency measure in the event of an epidemic prevents employees from performing their work and the



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fulfillment of such conditions is confirmed by the competent public health authority. In such a case, employees are secured in the same way as in the case of sickness, i.e. the employer pays 60% of the adjusted average pay for the first 14 days, and can receive sickness benefits from the 15th day.

Health checks and work permits and residence permits of employees of selected employers

Government Resolution No. 214 of 15 March 2020, promulgated under No. 84/2020 Coll., stipulates that employees who have employment relationships as of 15 March 2020 and beyond during the state of emergency the health checks and work permits and residence permits of employees may be replaced by Declaration of Honour according to the model:

- a health card pursuant to Section 19 par. 2 of the Public Health Protection Act, and
- assessment of the medical fitness of the person seeking employment (initial examinations).

In addition, there is no need for periodic medical examinations.

Last but not least, the validity of work permits and residence permits and visas issued up to 15 March 2020 persons in an employment relationship with employers who provide services on the basis of an agreement pursuant to Section 308 of the Labour Code (employment agency) or other contract, will automatically be extended for a period of up to 60 days after the end of the state of emergency, provided that the measures are in force on the date of promulgation.

Prohibition of taking holidays for medical professions

Government Resolution No. 216 of March 15, 2020, promulgated under No. 86/2020 Coll., prohibits from 16 March 2020 all medical professional employees pursuant to Act No. 95/2004

Coll. and Act No. 96/2004 Coll., to take leave during the state of emergency.

Mandatory quarantine

The government also decided on a mandatory 14-day quarantine after returning from abroad, which, in addition to Italy from 13 March 2020 at 12.00 hours, also applies to other high risk countries, such as China, South Korea, Iran, Italy, Spain, Austria, Germany, Sweden, the Netherlands, Belgium, Great Britain, Norway, Denmark and France (as of March 15). Thus, employers will have to excuse the absence of workers at the workplace after returning from these countries and provide them with a wage compensation of 60% of the adjusted average earnings over its duration. However, voluntary quarantine may also be recommended if employees returned shortly before this date.

The information contained in this bulletin is presented to the best of our knowledge and belief at the time of going to press. However, specific information related to the topics covered in this bulletin should be consulted before any decision is made. At the same time, the information contained in this bulletin should not be construed as an exhaustive description of the relevant issues and any possible consequences. Furthermore, it should be noted that there are various legal opinions on some of the issues raised in this bulletin due to the ambiguity of the relevant provisions. It cannot therefore be ruled out that in the future an interpretation other than the one we give us will prevail.

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