

COVID-19

and the rights and
duties of an employer



Considering the state of emergency declared in the Republic of Latvia as a result of the spread of the Covid-19 infection, we have summarized the most important matters to be considered by employers at this time.

This summary is updated as of 27th March 2020, based on the Cabinet of Ministers Order on Declaring the State of Emergency from 13th March until 14th April 2020 (hereafter, the Order), the Act on the Measures for Prevention and Elimination of the National Threat and Its Consequences due to Spread of Covid-19, and the 26th March 2020 Cabinet of Ministers Regulation No 165 "Regulation regarding employers affected by the crisis caused by Covid-19 who qualify for idle time allowance and a split of delayed tax payments into intervals or deferment for a period of up to three years" (hereafter, Regulation No 165). It is important that employers follow the latest information published by the Cabinet of Ministers, the Centre for Disease Prevention and Control and other responsible state administrative authorities.

1

The employer has the duty to ensure that persons with symptoms of acute respiratory infection are not employed in work resulting in a potential risk to the health of other persons. This means that in case of suspicions, the employer must request the employee to undergo a health examination in accordance with Article 82(1) of the Labor Act. The employee may return to his/her work only after the receipt of a doctor's opinion on the absence of acute respiratory infection.

Whenever the employer has suspicions of the health condition of an employee, the employer is entitled to require that the employee undergo a health examination (in this case - to the family doctor). **Expenses for the health examination must be covered by the employer.**

2

Taking into account each enterprise's specific characteristics, employers should organize work from home for their employees. **The employer shall agree with the employee on how such work is organized, how the tools and means necessary for the fulfilment of work are provided.** If the employment contracts currently in place provide for the possibility to assign employees to work from home, an additional agreement is not necessary.

The employer must ensure work conditions that are not hazardous for the employees' health and life, ensure the required labor protection measures and provide instruction on working from home.

3

If the employer decides to temporarily close the work place, thus suspending economic activity, and cannot enable employees to work remotely, the employer must assign the employees to idle time pursuant to the Article 74(2) of the Labor Act and retain their remuneration, unless the employer meets the preconditions provided in Regulation No 165.

The employer is not entitled to unilaterally send an employee on annual paid leave or unpaid leave without the consent of the employee. The employer must also agree with an employee on a decrease in the working hours and work remuneration to mitigate the losses to the business.

In the event that the employer decides on redundancy, this must be performed in accordance with the procedure required by the Labor Act, including the obligation to perform employee assessment before giving the notice of termination, clarifying whether the employee is member of a trade union, and paying severance pay.

4

Regulation No 165 provides a procedure for disbursement of idle time allowance to employees irrespective of the employer's industry, if the revenue of the employer has dropped due to the spread of Covid-19. Namely, every employer affected by the crisis whose revenue has decreased by at least 30% in March or April 2020 in comparison with the relevant month in 2019 due to the spread of Covid-19 can apply for this idle time allowance.

Employers may also apply for this idle time allowance if their revenue from the economic activity has decreased by at least 20% in March or April of 2020 in comparison with the relevant month of 2019 due to the spread of Covid-19 and if any of the criteria listed below is met:

- ☰ Volume of the employer's export in 2019 formed 10% of the total turnover or was at least EUR 500,000;
- ☰ The average gross work remuneration paid by the employer in 2019 was at least EUR 800;
- ☰ Long-term investments in fixed assets as of 31st December 2019 were at least EUR 500,000.

The amount of the idle time allowance is established by reference to information at the disposal of the SRS, at the rate of 75% of the average gross monthly work remuneration for the previous six-month period before the state of emergency was declared, or according to the data of the previous six months actually declared by the employer, but no more than EUR 700 per each calendar month. **This idle time allowance will be disbursed for idle time between 14th March 2020 and 14th May 2020 but no longer than the decision of the Cabinet of Ministers about the state of emergency is in effect.**

5

Employers are advised to, as far as possible, cancel official work travel and business trips to foreign countries, since as of 17th March 2020 all countries in the world are recognized as territories affected by Covid-19.

If an employer requests that an employee travel for work to foreign countries, the employee has the right to refuse such travel in accordance with Article 18 (1) Subparagraph 1 of the Labor Protection Act, if such travel causes or may cause risks to the safety and health of the employee or other persons and these risks cannot be prevented in another way.

If the employer has sent an employee on official work travel or a business trip to a foreign country:

- a) Following their return, a 14-day self-isolation is required for the employee, which in accordance with Article 74(2) of the Labor Act is considered idle time, during which the employee's work remuneration is retained, unless the employer is eligible to apply for the idle time allowance. The above does not apply to employees of the providers of transport and passenger carriage services, cargo or technical flight crews, who return from their travel for work, provided they do not exhibit symptoms of an acute respiratory tract infection and have not been in contact with persons diagnosed with Covid-19;
- b) where the employee is not able to return to the Republic of Latvia due to travel restrictions or because he/she is transferred into quarantine in a foreign country, the employer must pay the employee compensation for any additional expenses or daily allowance for such period of time, as well as reimburse other expenses, including travel costs, incurred before returning to the Republic of Latvia, in accordance with Clause 20.2 of the 12 October 2010 Cabinet Regulations No 969 *Procedures for Reimbursement of Expenses Relating to Official Travels*.

6

If an employee has been on a vacation trip to a foreign country after the state of emergency was declared, pursuant to the Order such employee must go into mandatory self-isolation. However, if there is no agreement between employer and an employee on work from home during the self-isolation period and if there is no sick-leave certificate issued to the employee, the employer may suspend the employee from his/her job duties, without pay, if failure to suspend such employee from work may be detrimental to the safety and health of the employee, other employees or third parties in accordance with Article 58 of the Labor Act.

Where the employee had voluntarily gone on a trip to a foreign country and cannot return to the Republic of Latvia due to travel restrictions or because he/she is quarantined in a foreign country, the employer can recognize their absence from work as justified, however the employer is not obliged to pay the employee remuneration for this period.



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