



Legal Alert

in the field of labour law

14 October 2020

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Employment benefits

Extension of Regime A of the Antivirus Program

Due to the fact that further restrictions on activities in some areas of the economy (especially hospitality and culture, extracurricular activities) were introduced as a part of epidemiological measures and new adjustment of benefits during partial unemployment has not been approved yet, i.e. the Czech equivalent of the so-called Kurzarbeit (Parliamentary Press No. 1025), the government approved an extension of Regime A of the Antivirus Program until the end of the calendar year.

The change is that in the case of wages paid in connection with operational restrictions due to anti-epidemiological measures, employers will be compensated for up to 100% of wages paid, up to a maximum of CZK 50,000 per employee per month, from 1 October 2020.

Nevertheless, in the case of **quarantine**, the **up to 80% of wages** paid by the employer will be compensated.

A possible extension of Regime B (in particular compensation for partial unemployment and idle time) and Regime C (insurance premiums discounts) will be discussed.

Czech equivalent of „Kurzarbeit“

On 25 September, the government submitted a proposal for the Czech equivalent of the so-called Kurzarbeit (Parliamentary Press No. 1025) which shall be included in Act No. 435/2004 Coll., on Employment, as amended. The proposed legislation responds to the situation of the coronavirus pandemic and aims to regulate, more generally, the benefits during part-time employment and other possible obstacles to work on the employer's side and thus contribute to maintaining employment.

Although the Chairman of the Chamber of Deputies declared a state of legislative emergency on the government's proposal and thus the bill was intended to be discussed in an abbreviated session with the omission of the first reading, the continuation of the state of legislative emergency was not approved on 30 September 2020. Consequently, the bill awaits the classic legislative process.

What and why should be changed?

The current legal regulation of contribution during periods of partial unemployment could not apply effectively during the coronavirus crisis. An obstacle to the use of this concept was, in particular, the level of contribution, which did not motivate an employer to keep its employees employed.

The level of contribution is determined by Act No. 435/2004 Coll., on Employment, as amended („**Employment Act**“) and amounts to 20% of the average earnings of an employee, up to a maximum of 0.125 times of the average wage in the national economy, which is currently CZK 4,179. Therefore, if the employee's earnings correspond to the average wage of CZK 33,429, the employer would be obliged to pay to the employee CZK 20,057 in the event of an obstacle to work due to a temporary drop in sales, with the state contribution of CZK 4,179. The explanatory memorandum to the bill assessed this as insufficient.

In the view of the previous realization of benefits under the Antivirus Program as well as the difficult realization of the current contribution during the period of partial unemployment, it was assessed that there is a need to legislatively regulate the benefits system. According to the explanatory memorandum to the bill, it shall be able to respond operatively and **effectively to all unforeseen events not caused by the employer** (economic recession, pandemic, natural disasters,

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cyberattack etc.) and support maintenance of job positions during these times.

It is thus proposed to include a new institute to the Employment Act which shall be the benefits during part-time employment („Kurzarbeit“). The proposed legislation takes over the parameters and procedures of the proven Antivirus Program and adds some other conditions for the provision of benefits during part-time employment.

What will part-time employment be about?

The aim of Kurzarbeit is to maintain job positions for people who are at increased risk of unemployment in specific situations. If the conditions for its provision are met, the institute of benefits during partial employment will consist in the assumption of wage costs for the period of „non-work“ for the employer by the state. In the case of benefits during part-time employment, the employer will not pay wages to employees for hours of „non-work“ as in the standard situation in the event of obstacles to work on the part of the employer. Benefits during part-time employment will be provided to employees by the Labour Office of the Czech Republic through their employer.

Conditions for the entitlement

- ▶ A part-time employee shall be entitled to benefits where the employment has been agreed for an indefinite period and lasts at least 3 months as of the date of submission of the employer's notification.
- ▶ The part-time employee shall be entitled to such benefits for the entire calendar month in which he/she cannot perform work due to the obstacles to work according to Section 207 to 209 of Act No. 262/2006 Coll., Labour Code, as amended („Labour Code“) which the employer suffers in direct connection with any of the specified reasons and if the employer does not assign to the

entitled employee work in the range of at least 20% and the most 80% of his weekly working hours scheduled according to Section 84 of the Labour Code for the relevant calendar month.

- ▶ Before submitting a written notification to the regional branch of the Labour Office, the employer is obliged to inform the employee in writing that there has been an obstacle to work on his part on the basis of which the employee is entitled to benefits during part-time employment.
- ▶ The support period should not exceed 12 months (the exact length will be determined by a government decree) and the benefits can be exhausted within a period of 24 months starting from the date of submission of the notification by the employer.
- ▶ The employee shall be entitled to the above benefits only for the part of his/her weekly working hours during which the employer does not assign him/her work and its amount is 70% of the average hourly net earnings. However, the maximum amount of benefits during part-time employment shall be the equivalent of the average wage in the national economy for the first to third quarters of the calendar year preceding the calendar year in which the notification was submitted by the employer.
- ▶ It will be possible to gain benefits on the basis of a government decree which will be issued if the economy of the state or its branches is endangered. It will be able to be limited to sectors or even regions.

The Kurzarbeit proposal in its current wording expects that employers will be obliged to pay benefits to individual employees within 10 days of its provision by the Labour Office. The benefits during the part-time employment will be subject to the usual compulsory. The employer will be obliged to pay premiums for social security from an amount equal to the benefits in employment paid to his employees.

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A relatively non-standard procedure is chosen for public health insurance premiums. It stipulates that if the employee's assessment basis in the month (basically the settled wage and all its components) in which the employee is entitled to benefits during part-time employment under the Employment Act is lower than the average gross monthly earnings determined under the Labour Code for this period, the employer is obliged to pay the insurance premiums to the health insurance company in the amount of 13.5% of the difference between these amounts while the additional payment will be paid by one third by the employee and two thirds by the employer.

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Všechna práva vyhrazena

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