

AUSTRIA

Coronavirus (COVID-19) Important Information for Businesses

In the following, we will give you a brief overview of the topics that you as an entrepreneur should consider in this regard and which measures (including preventive) you can take. Due to the large number of topics, the following selection is not exhaustive, and the framework conditions will in all likelihood continue to change.

The Epidemics Act (*Epidemiegesetz*) (Federal Law Gazette No 186/1950 in its current version) provides the basis for the essential measures of the Austrian Federal Government in the context of the Corona Virus. With Regulation Federal Law Gazette II No. 74/2020, the Federal Ministry of Social Affairs, Health, Care and Consumer Protection (*Bundesministerium für Arbeit, Soziales, Gesundheit und Konsumentenschutz, BMSGPK*) decreed that the precautions of § 20 (4) of the Epidemics Act may also be taken in the event of an infection with SARS-CoV-2 ("2019 novel Corona Virus").

Based on this, a number of measures (in the form of various ordinances and decrees) have already been enacted, which in particular now include business closures, restrictions on freedom of assembly, quarantine and entry bans. Further measures cannot be ruled out.

On Sunday, the legislator adopted, *inter alia*, the Federal Act on Establishing the COVID-19 Crisis Management Fund (*Bundesgesetz über die Errichtung des COVID-19-Krisenbewältigungsfonds, COVID-19-FondsG*), a Federal Act on Provisional Measures to Prevent the Dissemination of COVID-19 (*COVID-19-Maßnahmengesetz*). The COVID-19-FondsG is intended to create the legal basis for mitigating the negative economic consequences for employees and entrepreneurs. In addition to the measures already planned, the Federal Government has announced the possibility of further measures and funding.

Federal Act on Provisional Measures to Prevent the Dissemination of COVID-19 (*COVID-19-Maßnahmengesetz*)

Regulation of plant closures, quarantine and related measures

The official orders, with which businesses are closed, the opening of certain offices or the entering of public places is forbidden or e.g. quarantine is ordered, is to be obeyed under penalty of punishment. These orders can be issued in the form of regulations or, in individual cases, as a decision.

The fines can be up to € 30,000, depending on the offence, or imprisonment is possible in the event of uncollectability.

However, it is also important to note that not all the measures announced have already been imposed in the form in which they were communicated (partly in a vague manner). For example, a ban on entering public places (and mass transportation) has been decreed (Regulation Federal Law Gazette II No. 98/2020 of the BMSGPK). However, this does not apply to movements that are necessary for occupational purposes (and where it can be ensured that a distance of at least one metre can be maintained between persons at the place of occupational activity). Office activities are therefore still not prohibited and employees must therefore show up for work. However, the federal government has communicated a request to allow employees to work from home wherever possible.

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This delta between recommendation/request and absolute ban can (and is expected to) change in several areas in the coming days.

According to the regulation of the BMS-GPK Federal Law Gazette II 96/2020, the following are currently prohibited (and for the time being from 17.3.2020 up to and including 22.3.2020)

- Entering the customer area of business premises of trade and service companies as well as leisure and sports facilities for the purpose of purchasing goods or services or using leisure and sports facilities (there are exceptions to this rule with regard to goods for daily use and medical care (does not apply to catering facilities in companies if these are used exclusively by employees))
- Entering business premises of all types of hospitality operations (does not apply to delivery services)

A distinction must be made between these general provisions concerning freedom of movement and specific operating restrictions under § 20 of the Epidemics Act (*Epidemiegesetz*). However, the closure of an establishment may only be ordered if it appears necessary due to extraordinary dangers. Such restrictions will generally be issued in the form of decisions and will mainly affect establishments where there is a corresponding contamination.

Duty of care/special rights

Regardless of the specific provisions of CoV-19-SARS, the employers must observe toward their employees general duties of care. Accordingly, the employer must endeavor to reduce the risk of infection or illness for its employees by taking reasonable measures.

However, most measures can only be adopted by mutual agreement:

- The reduction of overtime or overtime can be agreed with employees;
- The reduction of vacation entitlements can also be agreed with employees;
- By means of a written agreement the reduction of working hours (part-time) can also be arranged

- If reasonable, home office can also be arranged with employees (please also observe the relevant data protection regulations).

Although the employer cannot in principle demand information about an illness, this is different in the case of highly contagious illnesses that are subject to compulsory notification. In this case, the employer can ask for both confirmed illnesses and suspected symptoms. The coronavirus (COVID-19) is diagnosed by a doctor who then must notify the authorities in accordance with the Epidemics Act (*Epidemiegesetz*). The employer must provide information when the district authorities carry out inquiries but is not independently obliged to notify the authorities.

Economic aspects

Independently of the measures provided for under COVID-19-FondsG (in respect of which there is expressly no legal entitlement), there are a number of generally available instruments that are available for economic cushioning.

For example, there exist the following possibilities:

Short-time working

Economic difficulties as consequences in connection with the coronavirus (COVID-19) are legally recognized for short-time work.

Short-time work is to be made possible in a simplified manner within 48 hours and up to zero hours and the AMS is to pay up to 90% of the remuneration.

However, short-time work will still require a company agreement or an agreement with employees. The other requirements and the corresponding procedure will presumably still have to be observed.

New special care period:

A special leave of up to 3 weeks can be agreed upon as of the official closure of kindergartens and schools if employees have to look after children up to 13 years of age and are not working in supply-critical areas.

The Federal Government will reimburse one third of the salary if the em-

ployer applies for this to the tax authorities within 6 weeks of the end of the official measures.

This can be attractive for employers, because employees are allowed to stay at home temporarily even if they are otherwise unable to work (e.g. care for children up to 13 years of age in a joint household) and are entitled to continued payment of remuneration.

COVID-19-FondG

In this case it is necessary to wait for the regulations of the BMF (*Bundesministerium für Finanzen, Federal Ministry of Finances*) in order to be able to classify the implications and measures.

Independent of financial aid, it should be possible to defer tax and social security payments. However, these will have to be applied for and require approval by means of an administrative decision.

Time period/economic crisis

It should be noted that the period of time for court deadlines is still uninterrupted. Statute of limitations, warranty and also court deadlines must still be observed.

In the event of insurmountable liquidity problems or over-indebtedness as a result of bad debts, the deadlines under insolvency law for setting appropriate restructuring or insolvency law measures also apply.

Further information and support

Further information can be found on our website:

www.benn-ibler.com/en/covid-19/.

We also provide information in an ongoing [COVID-19 newsletter](#), which you are welcome to subscribe to, and we will also set up additional forums.

If you have any questions, please contact your direct contact person or write us at covid19@benn-ibler.com.