

## AUSTRIA

# Coronavirus (COVID-19) Employment

## Relevant employment law topics in the Coronavirus (COVID-19) crisis

Almost every company is currently affected as an employer by the Corona (COVID-19) crisis, either because there is less or no work available or employees are afraid of infection or have to work at home or look after their children. Here are the most important answers.

### Reduction of manpower:

- **Short-time work**
- **Reduction of time credits**
- **Reduction of holiday entitlements**
- **Reduction of working time (part-time)**

The new measures according to the COVID-19-Masures Act passed on 15 March 2020 do not allow for plant closures, but affect sales by prohibiting entry. If an employer closes the business voluntarily, wages and salaries must still be paid (s.1155 General Civil Code ((ABGB)).

### **Short-time work:**

There are new regulations on short-time work, which can be **applied for at the employment agency (AMS) for 3 months**, with the possibility of extension for **another 3 months**. Short-time work now allows working hours to be **reduced to zero hours**. However, during the short-time working period, the working time must be at least 10%. The essential steps are:

- Informing the AMS in advance and contacting the specialist department of the Chamber of Commerce.
- Reduction of holiday entitlement from previous holiday years and of time credits. If employees do not (unfaithfully) agree to this, permission can be granted if the employer can demonstrate serious efforts.

- Entering into an agreement between the social partners (Chamber of Commerce and Union), which must first be signed by the employees concerned or the works council and by the employer.
- Application to the AMS, which can also be submitted retroactively.

The AMS pays up to 80-90% of the remuneration including social security contributions depending on the amount of remuneration, but only up to a maximum amount. Approval should be granted within 48 hours. Dismissals during short-time work and one month afterwards are not permitted, but are negotiable in special circumstances.

New guidelines and templates for the social partner agreement are to be published at short notice.

### **Other measures:**

In preparation for potential short-time work, an attempt must first be made to reduce old holiday entitlements and time credits. The consent of the employees should be documented (e.g., email). It is always possible to agree to part-time work, which must be done in writing.

As a last step, dismissals are also possible. In this case, notice periods and deadlines must be observed. The termination of at least 5 employees in companies with more than 20 employees (other figures apply to larger companies) must be notified to the AMS 30 days in advance; otherwise the termination is invalid.

### Absence of employees:

- In the event of **illness** (s.8 Employees Act), **the employee must inform the employer immediately** (i.e., at the start of employment). Salary must continue to be

Author:

Mag. Ingo Braun

✉ [ingo.braun@benn-ibler.com](mailto:ingo.braun@benn-ibler.com)  
☎ +43 1 531 55-700

Benn-Ibler Rechtsanwälte GmbH  
Tuchlauben 8, 1010 Vienna

This newsletter serves as general information and does not substitute individual advice.

paid, unless caused by the employee intentionally or gross negligently. **Proof must be submitted within a reasonable period of time (usually 3 days) at the request of the employer.** A request in advance in the employment contract is invalid. If no proof is submitted within the period set by the employer, the remuneration is no longer payable. Thus, employers should demand proof within 3 days of first information.

- This provision also applies to **other preventions to work** (s.8(3) Employees Act) in order to **supervise children** due to closed kindergartens and schools. This, however, is only for a "*relatively short time*", which is usually understood to mean 1 week. During the period of prevention to work, employers must continue to pay the salary as in the case of illness.
- **Entitlement to a nursing leave** (s.16 Vacation Act) of up to 1 week only exists if a child (or close relative) is ill. The exemption from supervision is not applicable due to lack of the prerequisites.
- **Special care leave of up to 3 weeks** can be agreed as of the official closure of kindergartens and schools if employees have to look after children of up to 13 years of age and are not working in areas where supply is critical. The government will **reimburse one third of the salary** upon the employer's request within 6 weeks after the end of the official measures.
- **Home office** cannot be ordered unilaterally if this has not already been provided for in the employment contract. The agreement should be documented (e.g., email) and should also regulate availability, work equipment, any reimbursement of expenses and the possibility of revocation.

#### Other issues:

- Due to the duty of care, the employer must take **measures to prevent employees from becoming infected** (e.g., possibility of regular hand washing). As a rule, the recommendations of the

[Labour Inspectorate](#), the [Ministry of Health](#) and the [Agency for Health and Food Safety \(AGES\)](#) must be observed and measures can be discussed with occupational physicians. In the event of suspected cases and infections, the employer must take further measures.

- Only a **doctor can determine the infection** with the coronavirus (COVID-19). If a **coronavirus infection is suspected**, the employer should contact the district administrative authority and the AGES because of his duty of care.
- The employer can **request information about highly infectious diseases** that must be reported in order to protect other employees. The employer must then take measures to protect the other employees.
- **Diseases caused by the coronavirus** (COVID-19) must be reported by the doctor to the District Administration Office. The employer is not obliged to report diseases under the Epidemics Act; however, he must provide information and report suspicious cases in case of investigations of the district administrative authority.
- Employees may neither demand **special protective clothing** nor wear it without the employer's consent, unless there is a particular risk of infection (e.g., contact with risk groups) or a particular risk (e.g., pregnancy). Employees may not refuse to work for fear of infection if this is part of their duties.

\*\*\*\*\*

For further developments subscribe to our newsletters at [www.benn-ibler.com/newsletter](http://www.benn-ibler.com/newsletter)

---

This newsletter serves as general information and does not substitute individual advice.

---