

Legal Alert

in the field of labour law

30 June 2021

Weinhold Legal

“Kurzarbeit” approval

Act No. 248/2021 Coll., which amends Act No. 435/2004 Coll., on employment, as amended, and introduces a legal framework for “**contribution during part-time work**“, the so-called kurzarbeit “Amendment“ was published on 30 June 2021.

The aim of the Amendment is to enable to maintain employment during serious economic difficulties. The Antivirus program which has been temporarily used for this reason will be terminated on 30 June 2021.

The Amendment enters into force on the 1st day of the month following the month in which the Amendment is published in the Collection of Laws. As the Amendment was published on 30 June 2021, it enters into force on **1 July 2021**.

The contribution during part-time work according to Section 120b (1) of the Amendment will be proposed by the government via regulation after discussion in the Council of the Economic and Social Agreement in case of serious threat to the economy of Czech Republic or its branches are seriously endangered for economic reasons characterised by relevant economic indicators and its past and expected development due to the occurrence of a natural event consisting of a natural disaster, epidemic, cyber-attack or other emergency situation that arises due to force majeure.

Whilst drawing the contribution, the Amendment imposes on the employer the following obligations

- to pay the employees **compensation of at least 80 % of their average earnings** in respect of an obstacle to work pursuant to Section 207-209 of the Labour Code arising in respect of the employer in direct connection with one of the reasons for which the government regulation was issued;

- **not to assign work** to employees due to the obstacles specified in the government regulation and **to the extent specified by the government regulation**, being at least 20 % and at most 80 % of their weekly working time spread over the relevant calendar month due to the listed obstacles to work. This condition is assessed on an aggregate basis for all the employees of the relevant employer (or part thereof).

The employer will be provided with the contribution during the part-time work („**Contribution**“) only for that part of the employee’s weekly working hours during which the employer does not assign the employee work. The employer will receive a compensation for wage and levies in the amount of 80 % of the costs for a period of up to six months (the given period may be extended twice for up to three months). 1.5 times the national average wage in the first to third quarters of the previous calendar year will be the cap for the monthly contribution.

The contribution will not be provided:

- if the employee has a working hours account;
- for a calendar month when the employer did not submit a monthly overview within the set deadline;
- for a period of 3 years from the date the decision on the imposition of a fine on the employer for allowing the employment of foreigners without a valid residence permit, in conflict with the work permit or without a work permit.

If the **employer** wishes to draw the Contribution, he will have **to declare** in writing that:

- he **will not terminate the employment relationship** with the employee for whom the contribution is

Legal Alert

in the field of labour law

30 June 2021

Weinhold Legal

provided due to organizational reasons for the period for which the Contribution is provided **as well as for a period corresponding to half the number of calendar months for which the contribution was provided rounded up to whole months;**

- he will allow the employees for which the contribution will be provided to participate in an active employment policy organized by the Labour Office (e.g., retraining);
- **he will not draw other funds** from public sources **for the same purpose** during the period of the provision of Contribution;
- he did not pay out an extraordinary profit share, nor otherwise distributed its own resources nor provided any extraordinary performance including early repayment of loans or borrowings in the calendar month preceding the entry into the force of the relevant government regulation on “kurzarbeit” and he will do so neither during the period of the provision of the Contribution nor within 12 months following the month in which the provision of Contribution was terminated;

The amendment will also stipulate the deadlines within which it will be necessary to apply for the drawing of the Contribution and to deliver prescribed overviews and documents.

Extension of the Antivirus A program until 30 June 2021

Based on the Resolution of the Government of the Czech Republic No. 505 of 31 May 2021, the Antivirus program continues in its restricted extent until the end of the June. The extension concerns only regime A, so the contribution is provided only due to the imposition of quarantine or due an isolation of the employee. Therefore, only those employers

whose employees have been ordered to quarantine or isolation due to COVID-19 will receive the contribution for the month of June 2021. In such a case, the amount of the contribution is 80% of the paid wage contribution and corresponding levies, up to a maximum of CZK 39,000 per month per one employee.

The currently approved extension of the period of eligibility of expenditure until 30 June 2021 exclusively for regime A due to the ordered quarantine or isolation was justified mainly by the fact that extraordinary measures, which would prohibit or restrict the employers from their economic activity are not expected to be taken in the month of June. Thus, the period of eligibility of expenditures for the other regimes, i.e., regime B, regime A Plus and regime A with regard to closed or restricted operations ended on 31 May 2021.

Obligation to wear respiratory protection in the workplace

The obligation to have mouth and nose covered by a respirator or other protective device without an exhalation valve with a filtration efficiency of at least 94% (class FFP2 / K 95) or by surgical mask in the workplace (located under construction) still applies. The employers are obliged to equip employees with the protective equipment.

A respirator or a surgical mask may be put away at the workplace only if the work is performed in one place, provided that only the co-workers of the concerned person are present, unless otherwise specified by the employer on the basis of the adopted and implemented hygienic, technical, organizational and other risk prevention measures.

Certain persons are exempted from the obligation to wear a respirator or surgical mask in the workplace. Such persons are: health professionals, if it is necessary for the provision of

Legal Alert

in the field of labour law

30 June 2021

Weinhold Legal

medical services (e.g., resuscitation), public transport drivers, judges, lawyers, public prosecutors, experts and interpreters in court proceedings, artists, moderators, editors and persons working with a heat at the 3rd and 4th degree of load (work in steel industry, metallurgy, etc.).

Measured connected to the border crossing

Restrictions concerning the entry to the workplace

Employers and end users of employees (regardless of nationality) who are obliged to undergo a test to determine the presence of the SARS-CoV-2 virus after entering the territory of the Czech Republic under the protective measure as a result of their stay abroad must prevent the entry of these persons to all business premises and workplaces, unless they submit a test to the employer or end-user in accordance with the protective measure

Employees and other persons, who perform work for employers and end users are obliged to inform their employers (end users) of travels abroad exceeding 12 hours or 24 hours in the case of neighbouring countries if they travel to countries with medium, high, very high or extreme risk incidence of COVID-19.

Each person who meets the above-mentioned conditions of staying abroad is obliged to:

- ▶ fill in the **Public Health Passenger Locator Form** before entering the territory of Czech Republic (can be found [here](#));
- ▶ to undergo:
 - a PCR test at most 72 hours **before entering the territory** or antigen test at most 48 hours before entering the territory (from 1 July 2021, in the case of

a test performed in a territory covered by the European Union Digital COVID Certificate Regulation, only a test certificate issued under the European Union Digital COVID Certificate Regulation that is not older than 48 hours from the date of performance of an antigen test or 72 hours from the date of the performance of a PCR test in countries bound by this Regulation); or

- a PCR test **within 5 days after the arrival, unless traveling by public transport** (exception applies to vaccinated persons as well as for the persons who have undergone the COVID-19 in the last 180 days)
- ▶ to undergo **PCR test**:
- **within 5 days** of arrival, if they travel from countries with a **high risk of incidence**, unless the concerned persons are vaccinated or have been infected with COVID-19 in the last 180 days);
 - **no earlier than on the 5th day and no later than on the 14th day** after the arrival from a **country with a very high risk risk incidence**,

and to stay self-isolated until obtaining the result from the PCR test.

A return from a country with **extremely high risk incidence** is under a special regime.

If the employee is not ordered isolation or other quarantine measure or if he is not allowed to work from home, his absence from work is considered to be other important personal obstacle to work on the side of employee under Section 199 of the Labour Code and the employee is not entitled to compensation of a wage, unless stated otherwise.

If the employee returns from the abroad, where he has been instructed by the employer to work away from his agreed place of work performance, his absence is considered to be

Legal Alert

in the field of labour law

30 June 2021

Weinhold Legal

an obstacle to work on the employer's side under the Section 208 of the Labour Code and the employee is entitled to compensation from the employer in the amount of 100 % of his average wage. In such a case, the cost of the test should be covered by the employer. For further information [see](#) communication of the Ministry of Labour and Social Affairs of the Czech Republic.

List of the countries with low, middle, high and very high risk of the incidence of the COVID-19 is published in the form of communication at the websites of the Ministry of Health of Czech Republic. The information as of the date of 30 June 2021 can be found [here](#).

The list of the countries with extreme risk of incidence of the COVID-19 is determined by a special protective measure taken by the Ministry of Health of Czech Republic.

With regard to the time of holidays, the employers may be strongly recommended to inform the employees of their obligations under the current emergency border crossing measure (as of 30 June 2021 can be [here](#)).

The end of the mandatory testing

On 7 June 2021, the Government approved an extraordinary measure of the Ministry of Health of the Czech Republic, which was published on 17 June 2021 which ends the compulsory testing at workplace as well as for the self-employed persons with effect from 1 July 2021.

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. The information contained in this bulletin should not be construed as an exhaustive description of the relevant issues and any possible consequences, and should not be fully relied on in any decision-making processes or treated as a substitute for specific legal advice, which would be relevant to particular circumstances. Neither Weinhold Legal, v.o.s. advokátní kancelář nor any individual lawyer listed as an author of the information accepts any responsibility for any detriment which may arise from reliance on information published here. Furthermore, it should be noted that there may be various legal opinions on some of the issues raised in this bulletin due to the ambiguity of the relevant provisions and an interpretation other than the one we give us may prevail in the future.

For further information, please contact the partner / manager you are usually connected to.



Anna Bartůňková
Managing Associate
Anna.Bartunkova@weinholdlegal.com



Eva Procházková
Attorney
Eva.Prochazkova@weinholdlegal.com



Daša Aradská
Attorney
Dasa.Aradska@weinholdlegal.com