

Mannheim/Frankfurt/Munich, March 2020



Covid-19 – expected urgent measures in employment law –

As much as employment law is at the epicenter of events due to the restrictions on economic life caused by the COVID 19 pandemic, the legal changes that employers and employees must observe are manageable.

This is because previous economic crises have already provided a tool set to help secure employment relationships even through periods of temporary work shortage.

1. The central tool for this is short-time working.

Most companies have already applied for **short-time work** or have familiarized themselves with the requirements. Important is a statutory ordinance of the Federal Government (KugV) to be issued in the COVID-19 situation, which will be issued to facilitate the receipt of short-time work compensation and is available as a draft ordinance as of March 23, 2020. Under this draft it is to be expected:

a) Use of time credits

First, the KugV stipulates that existing possibilities for using working time accounts in companies, in particular the creation of so-called "minus hours" within the framework of time account models, do not have to be used to claim short-time working compensation. Explicitly not yet regulated accordingly, but the handling of holiday entitlements is under discussion.

Threshold value of 10% instead of 30%:

A further facilitation regulated by this regulation is the lowering of the thresholds in the event that short-time working is not introduced throughout the company or department.

b) SV contributions are refundable:

Pursuant to Section 2 (1) KugV, the employer will be reimbursed in a lump-sum form by the Federal Employment Agency for the social security contributions which the employer has to bear alone while receiving short-time working compensation until 31 December 2020.

c) Temp Staff:

In addition, contrary to previous practice, the reference from KUG to temporary staff (“body leasing”) will be opened up (§ 3 KugV).

d) The current facilitating regulations will apply with effect from 1 March 2020.

2. Introduction of Short-Time Working:

a) To introduce short-time work, collective or individual contractual agreements are required that entitle the employer to introduce short-time work and then to receive short-time compensation. In the absence of such an agreement, the employer must enter into an individual agreement with the employee; not advisable, but often indispensable for operational reasons, is a largely informal agreement on short-time work by disseminating a general order which is accepted by the employees explicitly or conclusively by observing it.

b) It is important that the loss of working hours is reported immediately to the Agentur für Arbeit, which allows for limited retroactive effect of the KUG notification.

c) It is customary that short-time salary, paid by the employer as part of the regular payroll, is refunded in the middle of the following month. In view of the extraordinary wave of applications, it should be considered to arrange pre-financing of the short-time allowance by the house bank against assignment of the claims against the employment agency in order to compensate more quickly for the outflow of liquidity through salary payments to be made.

3. Deferral of Social Security Contributions

A new administrative practice announced by the social security carriers is significant for many employers from a liquidity point of view, namely that, in addition to the existing deferral options, the payment of social insurance contributions can be deferred from March 2020 until May 2020. And this without the interest and security that would otherwise usually be required.

This is important because without such a deferral the employer would have to pay the full social security contributions in order to be able to pay the net salaries to the employees (including the reduced contributions on the short-time working salary, which are only refundable).

Beyond this we can refer to our remarks in the newsletter from early March – they have proven to be quite correct and comprehensive by the development of the recent weeks. We are glad to make them available upon request in case you should not have received them yet.

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