

Employment Flash

March 2020

Coronavirus from the employer's perspective

Due to an increasing number of questions and growing concerns, we would like to remind you of the possibilities that the Labour Code offers to employers under these situations, and to recommend measures that might be reasonable to take.

In particular, we recommend **monitoring the www pages** of the Public Health Authority ([here](#)), the Ministry of Health ([here](#)), and also the Ministry of Foreign Affairs ([here](#)) carefully, where you can find the latest information. It would be appropriate to **inform your employees** about this too, and to emphasise that you are watching the situation carefully, and you are ready to respond immediately by taking appropriate measures should the situation get worse. In addition, of course, we recommend staying calm and keeping a matter-of-fact approach to the situation, not supporting the spread of fear.

Prevention first

COVID-19 and/or coronavirus is a viral disease so the infection could be prevented by typical measures, such as:

- increased hygiene – it is possible (but not mandatory) to provide employees with disinfectants (gels, soaps), and/or masks;
- avoiding places with a high concentration of people;
- avoiding contact with people that are obviously ill;
- adherence to a healthy regimen with increased consumption of vitamins, etc.

The employer must enforce general prevention principles in taking measures required for ensuring the safety and protection of health at work. The general prevention principles include the exclusion of danger and risks resulting therefrom, such as the assessment of risks that cannot be excluded. The employer is thus obliged to assess the risk carefully and, based on the results, to take and perform the necessary measures to ensure the protection of health of its employees. Such measures include **cancellation of business trips, cancellation of teambuilding events and any social events, ordering medical examination, and closing the whole workplace or any part thereof.**

In this connection, it is also appropriate to limit temporarily all scheduled business trips to foreign countries, withdraw employees who have been sent abroad on a long-term basis, especially to areas that appear as high-risk. If your company is often visited by clients or business partners from foreign countries, consider limiting such contacts, at least for a temporary period of time.

What about travellers?

Italy, especially its northern regions, is currently one of the sources of the infection. Do you have the right to ask your employees to cancel a scheduled and approved leave or to report any visit to that region?

The employer is entitled to cancel scheduled and approved leave and/or change the time of taking such a leave, or to withdraw the employee from the leave, however, the employer must **cover the costs** incurred by the employee in this respect. Before taking such a radical step, we recommend discussing the leave with the employee and possibly agreeing on solving the situation after their return (see one of the possibilities below). **As for the employee's holiday destination, you, as the employer, are not entitled to inquire that, although the employee may, but does not have to, inform you.** In the present situation, it seems appropriate to ask employees to inform the employer if they are about to visit Italy or any other high-risk destinations.

According to the **measure taken by the Public Health Authority of the Slovak Republic**, all persons having temporary or permanent residence in the Slovak Republic, living in the Slovak Republic for more than 90 days, or working in the Slovak Republic, who have returned from China, Korea, Iran or Italy to the Slovak Republic **since 10 March 2020**, are obliged to inform a doctor by phone or by e-mail immediately after their return.

Does the employer have to be proactive?

The employer is not entitled (or obliged) to "screen" where their employees spend their holidays, and the employee may, but does not have to, inform the employer. However, due to the seriousness of the situation, and in terms of prevention, we recommend that you:

- appeal to all employees that they do not ignore the necessity of quarantine, and, in case of any suspicion of disease, to inform their general practitioner within the measure specified above;
- appeal to all employees to avoid personal visits to persons who visited the most affected regions, with confirmed cases of coronavirus, during the incubation period – 14 days after return;
- recommend employees that they should limit their trips (including high-risk areas), and, of course, not to send them on such trips;
- remind employees of the prevention rules.

Quarantine

Quarantine may be ordered only by a medical practitioner, the employee being entitled to receive sickness benefit as in the case of temporary incapacity for work. This may not be decided by the employer. The employee is not entitled to receive sick pay for that period of time.

In case of ordered quarantine, the employer must **excuse the absence of the employee during quarantine within the meaning of Section 141(1) of the Labour Code**. The employee is obliged to prove the quarantine order to the employer in a reliable way. The competent facility must confirm the proof of the existence of an obstacle to work and its duration for the employee; otherwise the employer might assess the employee's absence as unexcused absence and/or draw other legal consequences therefrom.

The conditions and extent of financial assistance to the employee during quarantine are regulated by Act No. 461/2003 Z. z., the Social Insurance Act, as follows:

- **25%** of the employee's daily assessment basis **from the first to the third day of quarantine**,
- **55%** of the daily assessment basis **from the fourth to tenth day of quarantine**, to be paid by the employer

From the eleventh day, if the absence of income is expected, the employee is entitled to receive sickness benefit paid by the Social Insurance Agency amounting to 55% of the daily assessment basis.

What if the employee wants to work but the employer does not agree?

- **Home office:** If the nature of the work does not exclude than, it seems appropriate to apply the regime of home office (however, only on the basis of agreement; the employee must not be forced to do so);
- **Ordered leave:** If you know about the employee's scheduled leave within a sufficient period of time in advance, you can **order them to take the leave** also for 14 days following the scheduled return (however, this must be ordered at least 14 days in advance); at the same time, the employee's interests must be taken into account. However, we believe the employer must not order collective leave to employees to a significant extent.
- **Sending the employee home due to obstacles to work:** You can also send the employee home due to so-called **obstacles to work**, i.e. to order them not to come to the workplace for a specific period of time. However, in that case, the employee is entitled to receive sick pay from the employer amounting to 100% of the average earnings;
- **Unpaid leave:** Employees **must not be forced** to stay home due to obstacles to work on their part because of their stay in Italy or in any other possibly dangerous areas (i.e. to take an **unpaid leave**); unless you agree with them (in writing);
- **Extraordinary medical examination:** Another option is to send the employee to an extraordinary medical examination. The employer may measure the temperature of the employee in the workplace only with the employee's consent.

Closed schools and kindergartens – what about parents?

The employer must **excuse the absence of the employee** taking care of children under ten years of age that cannot be at school or in a kindergarten because they have been closed, or if a person who normally takes care of the child has become ill or has been ordered into quarantine. The nursing benefit amounts to 55% of the daily assessment basis or probable daily assessment basis.

We believe the information above will help you manage the current situation.

In case of any other questions, our labour-law team is ready to help you!

| NURSING BENEFIT IN CASE OF QUARANTINE MEASURES | |
|------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Who is entitled? | An employee (a person with sickness insurance), who takes care of a child (their own child or a child of their spouse, or a foster child) younger than ten years of age, if: <ol style="list-style-type: none"> the child has been subject to a quarantine order; the preschool facility or social service facility, which takes care of the child, or the school attended by the child, has been closed by decision of competent authorities or has been subject to a quarantine order; the individual who normally takes care of the child has become ill or has been subject to a quarantine order; or has been taken to the residential care of a health care facility and therefore cannot take care of the child. |
| Where and how to apply? | <ul style="list-style-type: none"> The attending physician will confirm the need of personal and all-day care (even retrospectively) The nursing benefit application is then forwarded to the employer who confirms it and sends it to the Social Insurance Agency As soon as the need of care expires, the Social Insurance Agency must be informed thereof |
| Who decides about the nursing benefit? | An entitlement to the benefit and compliance with all other statutory conditions of granting the benefit is examined by a branch of the Social Insurance Agency. |
| Nursing benefit amount | The nursing benefit amounts to 55% of the daily assessment basis or probable daily assessment basis. |
| When is the benefit paid? | If the documents were submitted in time, the nursing benefit is paid by the end of a month following the calendar month, for which the nursing benefit is payable. |
| Method of payment | <ul style="list-style-type: none"> In cash to the address By noncash transfer to a bank account or a foreign bank account |
| How long? | Until the lapse of the tenth day from the creation of the nursing need. |
| Parent's employment | The employer will excuse the absence of the employee during quarantine. The employee will not receive a sick pay for that period of time. |

In case of coronavirus, the Social Insurance Agency has simplified and modified the method of applying for the nursing benefit. A parent may claim the nursing benefit in a relevant branch of the Social Insurance Agency **by phone or by sending a completed form, which is available on the www site of the Social Insurance Agency.**

a. Children under 10 years of age: The Social Insurance Agency will verify if the school of the particular child has been closed due to a quarantine order, and the nursing benefit procedure may be commenced. The founder should provide the relevant information on its www site. Then the policy holder – employee should inform its employer about the obstacle to work (by phone or by e-mail).

b. Children over 10 years of age: In this case, the parent must contact a paediatrician by phone and follow their instructions. If the paediatrician concludes that the personal and all-day care of the child is inevitable although the disease has not developed in them yet, they may confirm the nursing benefit application and send it to the Social Insurance Agency.

In both cases, the branch examining the application assesses if the applicant meets all other conditions for granting the benefit, especially the existence of the sickness insurance.

If quarantine exceeds ten days, for which the nursing benefit is payable, the Social Insurance Agency, on the basis of a new confirmation of the founder about the ongoing quarantine, will **accept its extension as actually needed.**

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