

As summer continues, we are pleased to bring you a new instalment of Randls HR News. The epidemic, which is fortunately now in one of its waning phases, has inspired legislators to draft an amendment to the Labour Code to regulate so-called *kurzarbeit* - a topic we will cover in the first part of our news. In part two, we will then look at the Ministry of Labour and Social Affairs' manual on impediments to work during a natural event. Last but not least, we will bring you a short report on the proposed amendment to the Employment Act concerning agency workers, and finally we will mention new OSH rules in relation to the operation of so-called dedicated technical equipment, which will come into force during 2022.

Randls employment law team wishes you great summer and hopes you will have amazing time reading

KURZARBEIT

The amendment to the Employment Act, which introduces new rules for the so-called "kurzarbeit", also known as allowance in times of partial work, was finally approved in June. The politicians' intention was to adapt this institute so that it could be used in a wide range of situations and not just during the epidemic which was the very impetus for drafting the amendment.

Thus, it will also be applicable in the event of a natural event, an economic crisis or, for example, a cyber-attack, with the proviso that it is intended for employers on whose side impediments to work were established as a result of such an event.

The allowance in times of partial work must first of all be activated by a government decree in which the government sets out the conditions for its granting. The government decree will therefore be absolutely essential. For the time being, however, it does not appear that the government will consider issuing one in the near future.

The allowance can be granted for a maximum of 12 months at a rate of 80% of the employer's costs for an employee's salary compensation, including the cost of insurance premiums. However, the allowance is capped and will be granted only up to 1,5 times the average salary in the national economy during the first to third quarter of the calendar year preceding the calendar year in which the employer applies for the allowance.

Conditions of the allowance

- ✚ The employer shall provide the employee with salary compensation of at least 80% of the employee's average earnings. In practice, this means that if the Labour Code provides for a salary compensation of 60%, the employer must pay more than the statutory salary compensation if it wishes to receive the allowance in times of partial work.
- ✚ The employer shall not pay extraordinary profit shares to its members, partners, shareholders, members of its organs, or to a person controlling the employer or controlled by the employer, or otherwise distribute its own resources among them, or provide other extraordinary payments, for one month before the government decree takes effect, for the period during which the allowance is provided, and for 12 months after the allowance

provision ends. The total duration of suspension of these payments may be more than 2 years (25 months).

- ✚ The employer assigns the employee work in the extent of at least 20% but no more than 80% of his/her weekly working hours - the specific extent is set in the government decree. This condition will be assessed cumulatively for all employees of the employer, unless the employer is subdivided. If the

employer is subdivided, this condition will always be assessed only for the employees of the part of the employer affected by the employer's non-assignment of work.

- ✚ The employee's employment relationship must have lasted at least three months at the date of notification to prevent the employment relationship being concluded for the wrong purpose.

The allowance **will not** be provided in the following cases:

- ✚ employees remunerated with public sector pay,
- ✚ employees with working hours account
- ✚ if a fine was imposed on the employer for facilitating the performance of illegal work - for a period of 3 years since the decision's entering into force.

Employer's obligations

- ✚ The employer shall not terminate the employment relationship with an employee for whom it receives allowance in times of partial work for organisational reasons - during the period of the allowance and after the allowance has been terminated for a period corresponding to half of the calendar months during which the allowance was provided (this period shall be rounded up to whole months).

Example: The allowance is paid to the employer for April to June, i.e., for 3 calendar months. Even if the employer only receives an allowance for a particular employee for e.g., one hour in a given month, the whole of that calendar month is considered to be the allowance period. Half of this period is 1.5 months (3 / 2 = 1.5). The result should be rounded up to whole months, so that the duration of the commitment after the allowance has been paid is still 2 months.

We would like to invite you to the **current Randls Trainings**, also the popular lecture series Employment Law Step by Step has been re-launched, which we are happy to invite you to as well:

- 21.7.2021 SUMMER SCHOOL
Nataša Randlová, Michal Peškar
- 30.9.2021 Labour law Step by Step – 1st Episode
Nataša Randlová / Michal Peškar
- 6.10.2021 Whistleblowing in Czech Context *Anežka Petrová*

For more information about each training please visit www.randlstraining.com.

- ✚ The employer will not draw other funds from the state budget or other public sources for the same purpose during the period of the allowance (kurzarbeit).
- ✚ The employer will allow the employees who will benefit from the allowance during the period of partial work to participate in activities organised by the Labour Office for jobseekers or retraining courses.

If the employer fails to meet its obligations, it will have to repay the contribution. The salary compensation will be paid to the employee by the employer and the allowance will be provided by the Labour Office on a monthly basis, based on an electronic notification made by the employer to the Labour Office. The allowance granted to the employer cannot be affected by the execution of a decision or execution against the employer.

Mechanics of allowance provision

The employer must first inform its employees of the obstacle, followed by a notification to the Labour Office. This notification will be made electronically by the employer, as in the case of Antivirus, but compared to Antivirus, the employer will be required to provide more information. A statement of costs, including records of the employees' hours worked, will also have to be sent to the Labour Office within 20 days of the end of the calendar month for which the allowance is granted. The Labour Office will pay the allowance within 8 days of receipt of the cost statement. This time limit will allow the employer to receive the allowance by the end of the month, even before salaries are paid.

NATURAL EVENTS

The Ministry has issued a Basic manual for employees in the event of a natural disaster in connection with the tornado in the South Moravian Region. This manual is important for classifying actualities as impediments to work and can serve as a great guide for similar unpleasant situations in the future.

The manual can be found on: www.mpsv.cz/web/cz/pomoc-tornado together with the information about the financial help programme for victims of the tornado.

So, if you or your employees were affected by the tornado, you should definitely check it out. The manual covers situations in which an employee is absent from work for a reason related to a natural event consisting of the employee removing the effects of a natural event, providing assistance to another person, or failing to report to work on time because of a natural event.

Employee acts in his/her own interest

If the employee is removing the consequences of a natural event on **his/her property**, it is **other important personal impediment to work on the employee's side within the meaning of Section 199 of the Labour Code**. The employee is entitled to leave from work without salary compensation.

Employee acts in his/her own interest and simultaneously in public interest

In such a case, it is an impediment to work **for reasons of general interest pursuant to Section 202** of the Labour Code without entitlement to salary compensation, during which the employee is entitled to time off work. An example would be when an employee intervenes when a neighbouring building is threatened with collapse.

Employee provides help to another person

It is also an impediment to work due to the performance of a civic duty under **Section 202** of the Labour Code (without entitlement to salary compensation).

As a result of a natural event, the employee did not come to work on time

If an employee fails to report to work on time due to interruption of the operation of public transport, the employer shall grant him/her a leave of absence without compensation of salary or public sector pay for the necessary period of time if the employee could not reach the workplace by other reasonable means (see point 3 of the Annex to Government Decree No.590/2006 Coll.). The employee may agree with the employer to make up the time missed by working more in the future.

In case of all impediments, the employee must still notify you as the employer about the impediment to work without undue delay, including the expected duration of the obstacle, and prove it to you.

„QUOTAS“ OF AGENCY WORKERS

According to the minister Jana Maláčová, an amendment to the Employment Act restricting agency employment could be adopted before the elections. This proposal includes a provision that requires the user to ensure that the proportion of temporarily assigned employees is no more than 10% of all employees employed by the user.

For the calculation of the ten percent, the average number of employees in the quarter preceding the quarter in which the threshold is examined is to be used. If the employer fails to meet this 'quota', he commits an offence for which a penalty of a fine of up to CZK 2 000 000 is proposed. The main reason is to ensure that employers use their own employees primarily and thus ensure greater stability in employment relationships.

In our opinion, however, it is likely that the amendment will not be approved before the elections.

NEWS IN THE REALM OF OSH

From 1 July 2022, a new Act No. 250/2021 Coll. will come into force concerning occupational safety in connection with certain technical equipment. The standard will apply to equipment presenting an increased level of risk to the life, health and safety of natural persons, namely lifting, electrical, gas and pressure equipment (so-called dedicated technical equipment).

The equipment and new safety requirements will be specified in government decrees. These implementing regulations have not yet been issued. It would be advisable to discuss this new change with OSH technicians and check that they are aware of it so that you can prepare in advance.

Randl Partners
advokátní kancelář attorneys at law

Tetris Office Building
Budějovická 1550/15a
140 00 Praha 4

lus Laboris
Global Human Resources Lawyers

tel.: +420 222 755 311
e-mail: employment@randls.com
internet: www.randls.com

This edition of HR News was prepared for you by:
Michal Peškar a Nikola Minkovičová