



MAR. 20

EMPLOYMENT AND LABOUR

Coronavirus: Management of human resources in employment relationships

With Decree-Law 10-A/2020 of 13 March, the Government has introduced a broad set of exceptional and temporary measures on preventive isolation (often referred to as “quarantine”), social protection for those affected by the disease, absence from work due to the closure of educational establishments, and the arrangements for home working.

We have received a number of questions from employers and employees relating the management of human resources and employment relationships in face of the spread of the new Coronavirus, COVID-19. Due to the importance and huge impact of this situation, we wish to highlight the following extraordinary measures that have been adopted:

"The situation of the worker who is obliged to go into preventive isolation for 14 days, certified by a health authority, is deemed equivalent to the worker being off work due to sickness."

1. Preventive isolation

1.1. Preventive isolation of the worker:

- The situation of the worker who is obliged to go into preventive isolation for 14 days, certified by a health authority, is deemed equivalent to the worker being off work due to sickness.
- In this situation, the employee is entitled to a daily benefit corresponding to 100% of the reference pay, regardless of whether they have reached the minimum insurance period or the minimum amount of paid work, or of whether they have certification of temporary incapacity for work.
- The granting of this benefit is immediate and it is not subject to the three-day waiting period normally applicable in situations of sickness.

1.2. Preventive isolation of a child or a dependant of the worker:

- Absence from work due to the worker's need to deal with the preventive isolation of a child or any other dependant, regardless of age, will be considered a justified absence. The general rules set out in the Employment Code will apply.
- If the need for assistance due to preventive isolation involves a child or grandchild under the age of 12 or, regardless of age, with a disability or chronic illness, the granting of the benefit in the daily amount of 65% of the reference pay does not depend on the usual minimum insurance period.

2. Social protection for those affected by the disease:

- When workers are sick due to COVID-19, the granting of sickness benefit is immediate and not subject to the three-day waiting period normally applicable in situations of sickness.
- In general terms, the amount of the sickness benefit payable to the worker due COVID-19 will be calculated by applying the following percentages to the reference pay:
 - i) 55% in the first 30 days;
 - ii) 60% for the period between 31 days and 90 days;
 - iii) 70% for the period between 91 days and 365 days;
 - iv) 75% for the period exceeding 365 days.

3. Absence from work due to the closure of educational establishments:

- An absence is deemed to be justified, without loss of rights, except for those relating to pay (without prejudice to what we say below), when there is an unavoidable need to provide assistance to: (i) a child or other dependent under the age of 12, or, (ii) regardless of age, in the case of people with chronic disabilities or diseases, because of the suspension of academic and non-academic activities in a school or other establishment that provides early childhood or disability support, as determined by the health authorities or by the Government between 16 March 2020 and, in principle and subject to reassessment, 9 April 2020.
- This arrangement will remain in place throughout the academic calendar, but it is not applicable during the designated school holiday periods.
- The worker must inform the employer of their absence as soon as possible or the absence from work may be considered unjustified.
- Workers in this situation are entitled to an exceptional benefit corresponding to 2/3 of their base pay. This benefit is paid in equal shares by the employer and the social security. The minimum amount is €635 and the maximum is €1905.
- This exceptional benefit is granted automatically upon request of the employer, unless there are alternative ways of working, in particular, working from home.
- The employer has to pay the employee all of this benefit, but the social security will then reimburse 50% of it.

- The worker has to pay the normal social security contribution rate of 11% on the benefit granted to them. The employer's contribution enjoys a reduction to 50% of the usual rate (i.e. a rate of 11.875% applies in cases in which the normal rate is 23.75%).
- The benefit granted to the worker must be reported in a declaration of autonomous remuneration.
- This benefit is only granted to one of the parents and the worker receiving it must declare in the social security form (Mod. GF 88 - DGSS) that the other parent has not requested or received this same exceptional financial family support based on the closure of an educational establishment.

4. Working from home:

- Working from home is an option if it is compatible with the job in question. The change to these arrangements is that it can now be imposed unilaterally by the employer or requested by the employee. It is not necessary for them both to agree on it.
- The usual conditions remain in force in the case of home working. These include the obligation on the worker to observe the rules on the use and functioning of the working tools made available to them. Workers also have to respect the schedule of visits to their home between 9.00h and 19.00h, if necessary, to check on their work.

We are awaiting the official publication of the changes that have been announced to the general arrangements for the suspension of employment contracts (known as the "lay-off"), which is the subject of Council of Ministers Resolution 10-A/2020 of 13 March. ■