

Update COVID-19 in the Workplace



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The Irish government has just committed an additional €3.7 billion to support new employment measures to combat the impact of COVID-19. The measures have been welcomed by employer representative body IBEC and the Irish Congress of Trade Unions.

It is, in fairness, a comprehensive package to support employees, self-employed, companies and the economy. The government has moved quickly and radically as well as introducing further public health measure to protect the community from the COVID-19 pandemic.

Increase in COVID-19 State benefit and New Wage Subsidy

- COVID-19 unemployment benefit to increase from €203 to €350
- Self-employed covered
- COVID-19 illness payment also to increase to €350
- Wage subsidy of 70% for employers up to a weekly maximum of €410 per week to enable employers to keep paying their staff.

New Legislation - The Emergency Measures in the Public Interest COVID-19 Bill 2020

Extension of Emergency Period and amendment of right to claim a redundancy payment from an employer when "laid off" or on "short time"

During the emergency period the Bill provides that section 12 of the Redundancy Payment Act, 1967 shall not apply. This means the usual entitlement of an employee to give notice to their employer seeking payment of a statutory redundancy payment after 4 weeks on a continuous period of lay off or 6 weeks in any 13-week period, will not operate during this period. Employees cannot now trigger or seek payment of a statutory redundancy payment after the traditional 4 weeks lay off period. This means many employees will most likely remain on an extended lay off period. However, there is now support from the State to the employer so that they can continue to pay their employees during this emergency period, which has been extended to **31 May 2020**.

New Wage Subsidy

The subsidy will be available to employers who keep employees on the payroll throughout the COVID-19 pandemic in the anticipation that employers can retain links with their employees for when business picks up after the crisis. It is also to ease the burden on the Department of Employment Affairs and Social Protection (DEASP) which is dealing with the other COVID-19 related payments. Employers are encouraged to facilitate employees by operating the scheme and making best efforts to maintain a healthy or full income, for the employee for the duration of the scheme.

Key elements

- Replaces the previous COVID-19 Refund Scheme – laid off employees will now deal directly with DEASP
- Employers must register for this scheme with the Revenue, who will make this payment through pay and are reimbursed by Revenue directly
- The subsidy is available to employers from all sectors (excluding the public service and non-commercial semi-state sector)
- The scheme is available for employers who retain staff on payroll; including laid off staff, staff that are working on reduced hours and/or reduced pay, so employees may be working on reduced pay or hours or completely laid off.
- Applies to employers who top up their employees' wages and those employers who cannot pay anything

- Employers must be experiencing significant negative economic disruption due to COVID-19 and be able to demonstrate, to the satisfaction of Revenue, a minimum of a 25% decline in turnover and be unable to pay normal wages and outgoings fully (actual or predicted turnover)
- The scheme is confined to employees who were on the employer's payroll as at 29 February 2020
- The reimbursement will, in general, be made within two working days after receipt of the payroll submission
- In April, the scheme will move to a subsidy payment based on 70% of the weekly average take home pay for each employee up to a maximum of €410. Details on this will be made available by Revenue in due course
- Income tax and USC will not be applied to the subsidy payment through the payroll
- Employee PRSI will not apply to the subsidy or any top up payment by the employer.
- Employers PRSI will not apply to the subsidy will be reduced from 10.5% to 0.5% on the top up payment

Some tricky issues will not doubt arise as to how you establish inability to pay normal wages and normal outgoings fully? Employers will need to do some work in producing cash flow predictions to demonstrate eligibility for the scheme. Other interesting issues have already been raised in the potential difference in treatment of agency workers, which will need to be ironed out etc.

Essential Services

Schools closures have been extended and non-essential retail is now required to close, having endured a period where many shops, restaurants, pubs and cafes have already closed, there will be additional job losses or lay off in many industries, such as the beauty industry and construction to name but a few. The airline industry has been badly hit with confirmation from Ryanair in last few days that there will be no commercial flights until June.

However, the definition of essential services, for now, is broad and we are a while away from a lock down. This means that pharmacies, supermarkets, off licence, take away, hardware stores, fuel stations, banks, post office, opticians, garage repairs, stationers, mobile and computer shops supporting home working can continue to operate as essential services with the support of public transport.

New restriction on movement

There is no restriction on the amount of times you can leave your home, but you cannot be accompanied by more than 4 people at any one time. The same 2 metres rules must apply. Essential retail outlets must operate strict physical distancing measures, which many have already adopted, and the public have mostly adapted to.

Please note this is an evolving situation and the Government response is changing on a daily basis. This note is not comprehensive advice about an employer's obligations in response to the spread of COVID-19. They do not amount to legal advice. For specific questions in relation to your own organization, please contact the team at CC Solicitors for employment advice.