

Employment Law Issues during Covid-19

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INTRODUCTION

- Temporary Wage Subsidy Scheme
- Changes to the law relating to lay off and short-time
- Commonly asked questions during the pandemic
- Minimising potential future exposure to litigation

TEMPORARY WAGE SUBSIDY SCHEME

- Employer Eligibility
 - Business will need to be “significantly and adversely affected” by Covid-19 in quarter two of 2020 resulting in an inability to pay employee wages as normal
 - The 25% test
 - 25% reduction in sales / bookings / number of service visits
- TWSS registration – not a declaration of “insolvency”
- TWSS is evolving rapidly, ensure that you check for updates to the Revenue FAQ and Guidance

TEMPORARY WAGE SUBSIDY SCHEME

- Employee Eligibility
 - On the employer's payroll on 29 February 2020
 - Employee's pay and tax details were reported to Revenue in qualifying payroll submissions
 - Being kept on the employer's payroll
- Is the TWSS available in respect of directors/self-employed?

TWSS – TRANSITIONAL PHASE

| Average Net Weekly Pay* | Subsidy Payable Per Week |
|----------------------------|--------------------------|
| Less than or equal to €586 | 70% or €410 |
| €586 to €960 | €350 |
| Over €960 | €0 (prior to 16 April) |
| | |
| | From 16 April** |
| Pay cut | |
| 40% or more | Up to €350 |
| 20%-39% | Up to €205 |
| Less than 20% | €0 |

(*Based on the average net weekly pay during January and February 2020).

(** The TWSS has been extended to employees with an annual salary of greater than €76,000 (average net weekly pay of greater than €960 per week) before the pandemic and who have since taken a pay cut of 20% or more and fallen below €76,000).

TWSS – OPERATIONAL PHASE

| Average Net Weekly Pay* | Subsidy Payable Per Week |
|-------------------------|--------------------------|
| Less than €412** | 85% (max €350) |
| €412 to €500** | €350 |
| €500 to €586 | 70% (max €410) |
| €586 to €960 | Max of €350 |

*(*Based on the average net weekly pay during January and February 2020).*

*(** Subsidy increased with a specific focus on lower-paid workers).*

COMMONLY ASKED QUESTIONS

- If my company avails of the TWSS, will that be made public?
- How long will payments last under the TWSS?
- Does an employer have to top up employees' pay to avail of the TWSS?
- Can an employer deduct a pension contribution from a TWSS payment?
- Can an employer avail of the TWSS where it rehires an employee who was previously laid off and not kept on payroll?

COMMONLY ASKED QUESTIONS

- Can an employer make an employee's position redundant and continue to avail of the TWSS?
- Does the TWSS require an employer to notify an employee of the amount of the TWSS the employer is receiving?
- The rates are confusing, is there a calculator available?
- Has Revenue issued guidance in relation to employer eligibility for the TWSS?
- Do employees who are on sick leave qualify for the TWSS?

LAY OFF AND SHORT-TIME

- What is meant by lay off and short-time?
- Is there a legal obligation to pay employees on lay off or short-time?
- What are the risks arising from placing employees on lay off or short-time and not paying them/paying them less?
- Can an employee on lay off or short-time claim a statutory redundancy payment?
- What State benefits may be available to employees placed on lay off or short-time?

RELATED ISSUES

- Can employees be required to take annual leave?
- What are the legal risks of implementing salary cuts?
- What issues does an employer need to consider when implementing redundancies?
- Does the TWSS present any potential challenges in defending employee claims in the future?
- Do the rules on collective redundancies continue to apply to redundancies implemented as a result of Covid-19?

RELATED ISSUES

- If an employee is laid off, does she/he continue to accrue annual leave?
- Does lay off impact an employee's entitlements in respect of public holidays?
- In what circumstances is force majeure leave available to employees?
- What sorts of legal issues will be most relevant to the re-opening of my workplace?

Please note that these slides provide a summary of issues and do not amount to professional advice. Legal and tax advice should be sought in respect of specific queries. The Covid-19 situation is evolving rapidly and these slides were prepared on the basis of information available as at 7 May 2020.

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Thank you



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