



Mazars Payroll Newsletter

As we mentioned in the summer issue of our Payroll Newsletter, we are bringing you more detailed information on the changes in the Labour Code, valid from 1 January 2021.

1. New conception of holidays – an important and essentially revolutionary change where the right to a holiday will now be determined in hours instead of days.

The main goal is to remove the problems with calculating the right to a holiday for employees with unequally distributed working hours and with shorter working hours. **The right to a holiday, as well as its use, will now be based on the relevant length of the weekly working period expressed in hours.** This will improve the calculation of the holidays and the setting of equal conditions for their use by all employees depending on the comparable worked weekly working period, regardless of the manner they are scheduled in shifts. It is possible to deviate from the law to the benefit of the employee.

The current legislation recognises holidays for the calendar year (or its aliquot part) and holidays for worked days. **Now only holidays for the calendar year will be determined (or its aliquot part, if the employee will not work for the employer for the entire year).** For the sake of completeness, we present another type of holiday: additional leave, which remains as a term in the law.

The basic measurement of holidays in the Labour Code remains in weeks, so in this regard there is no change. Remember that for most employees in the business sphere, this amounts to 4 weeks. **The amount of the right to holidays, however, will now be determined from the weekly working hours of the given employer in hours.** That is why the right to holidays will also no longer be measured in days, but in hours.

For workers with regular weekly working hours that do not work at the employer all year, practically nothing has changed. Instead of the basic **right to 20 days**, now when working a 40-hour work week they will have **the right to 160 hours** of vacation (4 weeks × 40 hours = 160 hours).

These days, however, it is standard for firms to offer **25 days** of holidays, where the calculation will be as follows: 5 weeks x 40 hours = **200 hours** of holidays per calendar year.

The change of the rules for calculating the right to holidays in the amendment to the Labour Code balances out the situation for employees who have **unequally distributed** working hours and have shifts of different lengths (one day of holiday means a day of a shift regardless of its length, though it can differ by several hours). During the new calculation of the right to holidays this inequality is removed, because these employees will draw on their holidays in hours according to the length of the planned shift on the day the holiday is taken.

If the employee **did not work** for the same employer for the **entire calendar year**, he will have the right to an **aliquot part of the holiday** for the calendar year under the assumption that he worked at the employer for a period of at least **four weeks**.

An employee who **worked for less than four weeks** for an employer **will not have any right to a holiday**.

We would like to emphasise that, contrary to the expectations of some employees, it is still necessary to use at least half a day of holidays; the new method for calculating the hours is only used for a more precise specification of the right to a holiday. There will only be a provision added to the law that “in exceptional cases, the employer can specify a holiday that is shorter in length than the length of a shift for the employee and with his/her approval, though it must be at least half the shift in length.”

There is also an important change here enabling the **taking of holidays on public**

holidays: if the employee has a shift planned on a public holiday, he can be given a holiday on this day, but only **at his own request**.

With regards to the reduction of holidays, the current rules are eased a bit. Now holidays will only be **shortened in the event of an unexcused absence**. The employer will be able to shorten the holidays **by the number of unexcused hours of a missed shift** (though only after the number missed hours reaches at least the length of one shift, i.e. if the employee works most frequently in 8-hour shifts and has one unexcused hour missed in seven working days, the holidays would not be shortened. It would be necessary to wait until the total reaches the length of the shift, i.e. eight hours, before shortening the holidays). It is only possible to shorten the holidays in the same calendar year in which the unexcused absence occurred.

Until now, if an employee had, for example, a long-term illness, his right to holidays for the calendar year was shortened by 1/12 when more than 100 days (shifts) are missed and subsequently by another 1/12 of the annual entitlement to holidays for each additional 21 missed days (shifts).

The new conceptual change does not count on the subsequent shortening of the holidays for the calendar year or its aliquot part and the condition of **missing shifts when ill** (if it is not the result of an accident at work or occupational illness), **for reasons of quarantine, parental leave or other important obstacles to work = partially attributable compensatory periods**, is modified so that these partially attributable compensatory periods are recognised as the performance of work for the purposes of holidays **up to 20 times the specified**

weekly working hours. This means that now the holidays will not be shortened, since for the period above and beyond the aforementioned limit there will be no right to holidays.

The right to holidays will only arise for these important obstacles to work up to the limit of 20 times the specified weekly working hours if the employee **works at least 12 times the specified weekly working hours outside of this period** in the given calendar year.

EXAMPLES:

Holidays for the 2021 calendar year:

- The right arose for 52 worked weeks
- The year 2021 has a total of 261 working days including public holidays
- An employee has the right to the “full extent” of holidays for a calendar year if his employment for the employer lasted for 52 weeks without interruption in the calendar year and he worked for at least 52 times the specified or negotiated shorter working hours during this year.

Specified weekly working hours: 40 hours

- Holiday from employer: 5 weeks
- 2088 hours worked during the calendar year ($261 \times 8 = 2088$)
- 52 times the specified weekly working hours = 2080 hours ($52 \times 40 = 2080$) The 8 hours worked beyond the entire multiple of the of the specified weekly working hours are not taken into account
- **The employee is entitled to the full extent of the holidays for the**

calendar year in the length of 200 hours ($40 \times 5 = 200$)

Shorter weekly working hours: 30 hours

- Shorter weekly working hours: 30 hours
- Holiday from employer: 5 weeks
- 1566 hours worked during the calendar year ($261 \times 6 = 1566$)
- 52 times the shorter weekly working hours = 1560 hours ($52 \times 6 = 1560$)
- The 6 hours worked beyond the entire multiple of the of the specified weekly working hours are not taken into account
- **The employee is entitled to 150 hours of holidays for the calendar year** ($30 \times 5 = 150$)

Aliquot part of holidays

- The right arises after working 4 weeks in the calendar year in the scope of the specified weekly working hours. The employee is entitled to $1/52$ of the specified weekly working hours for each specified week of work.
- Specified weekly working hours: 40 hours
- Holiday from employer: 5 weeks
- The employee worked for 529 hours ($529 / 40 = 13.225$), i.e. 13 entire multiples of the weekly working hours.
- Calculation: $13 \times (40/52 \times 5) = 50$ hours

Unequal distribution

- A special rule applies for cases where the settlement period passes to another calendar year and the employee works in the calendar year according to the shift schedule more hours than corresponds to 52 weeks = an extension of 1/52 of the holidays for the calendar year for each additional working period above 52 weeks
- Specified weekly working hours: 37.5 hours
- Settlement period 26 weeks from 1.10.2021 to 1.4.2022
- Holiday from employer: 5 weeks
- The employee works 2028 hours in 2021 (2028: 37.5 = 54.08), i.e. 54 entire multiples of the weekly working hours

Calculation: $54 \times (37.5 / 52 \times 5) = 194.71$; 195 hours after rounding

Change of length of working hours during year

- Up until 30.6 the employee worked for the specified weekly working hours of 40 hours
- From 1.7 he works for the negotiated shorter weekly working hours of 30 hours
- During the 2021 calendar year he worked a total of 52 entire multiples of the weekly working hours, 26 weeks of which for 40 hours and 26 weeks for 30 hours
- Holiday from employer: 5 weeks

Calculation:

for the first half year ... $26 \times (40 / 52 \times 5) = 100$ hours

for the second half year ... $26 \times (30 / 52 \times 5) = 75$ hours

Total for 2021: $100 + 75 = 175$ hours

2. Shared workplace

The goal of introducing a shared workplace is to support the harmonisation of the working and family life and to ensure the employment primarily of mothers with small children. The granted tax advantage should be motivation for employers to establish shared workplaces, though the details with regard to this advantage have not yet been published.

The employer can conclude an agreement by which two or more employees with shorter working hours and the same type of work will be able to schedule the working hours into shifts themselves for a shared workplace after mutual agreement so that each of them fulfils an average weekly working period in a four-day compensation period at the latest. The total length of the weekly working period of the employees in a single shared workplace cannot exceed the length of the specified weekly working hours. The employees are obliged to submit a joint written schedule of the working hours to the employer no more than 1 week before the beginning of the settlement period. If this does not occur, the employer specifies the scheduling of the working hour into shifts.

3. Obstacles in work on the part of employees due to general interest

The time off in Section 203 (2) (h) of the Labour Code is extended to further cases than activities at camps for children and youth, specifically to similar activities at sport camps for children and youth. If an employee demonstrates to an employer that it is an event organised by a legal entity registered

in a public register of legal and physical entities for a period of at least 5 years and the work with the children and youth is its main activity, then the employer will also now be obliged to provide the employee time off with compensation of wages or a salary in the amount of the average earnings for a period of up to 1 week in a calendar year. The employer subsequently has the right to compensation of the expenses for providing the time off from the state budget.

4. Compensation of material and non-material damages

The circle of entitled persons has expanded for the one-off compensation for survivors (newly called the one-off compensation of non-material damages): husband, partner, children (all children, not only dependent children), parents (the joint household is not identified) and other persons in a family or other relation that feels the employee's damage as their own damage.

The compensation is increasing from the original minimum of CZK 240 000 to the minimum of twice the average wage in the national economy determined for the first to third quarters of the calendar year preceding the calendar year in which the survivor's right to one-off compensation arises. For a better picture, if the new rules were to already apply in 2020, the compensation would amount to CZK 668 580. The amount of the compensation for the year 2021 was not yet known when this material was being prepared.

Now the institute of on-off compensation (the one-off compensation of non-material damages) during especially serious bodily harm to the employee is for the same circle of persons as in the first case.

In addition, the compensation for establishing a monument or plaque upon the

death of an employee as a result of a work injury or occupational disease is increasing from the current minimum of CZK 20 000 to at least 1.5 times the average wage for the first to third quarter of the previous calendar year (thus if the new rules were to apply, it would be CZK 50 144 in 2020).

We also bring you some of the current changes in relation to Covid-19:

1. Antivirus Programme

On 14.10.2020, the Government of the Czech Republic approved a change to the Antivirus Programme with Resolution No. 1039. It is an **extension to the period of the eligibility of expenses in Regime A until 31.12.2020** and also the introduction of an increased contribution for closed service operations - Antivirus Plus (A Plus Regime). On 26 October, the Government followed this decision with the approval of the **extension to the period of eligibility for Regime B until 31.12.2020 as well.**

Antivirus Plus Regime (A Plus Regime)

This only applies to employers whose operations were forced to close (or were significantly restricted) by the Government's emergency measures or the extraordinary measures of the Ministry of Health or public health authorities (regional hygienic stations).

It does not apply to ordered quarantine/isolation. For them Regime A is still valid.

Parameters of Antivirus A Plus

A contribution in the amount of 100% of the paid compensation of wages + contributions Exclusively only in the case that the employer has paid compensation of wages pursuant to Section 208 of the Labour Code, if the obstacle to work arise as a result of the forced closing of the employer's service operation (or it is significantly restricted,

whereas as significant restriction is, for example, the opportunity to provide catering services through a dispensing window - the operation as such is not closed, though it is significantly restricted)

- At most CZK 50 000/month/employee
- For expenses incurred by the payment of wages for obstacles in work incurred after 1 October 2020 (inclusively)

2. Care-giver's allowance due to school closures

Based on the approved Act No. 438/2020 Coll., on the Adjustments of the Provisioning of the Care-giver's Allowance in Connection of the Extraordinary Measures During Epidemics and on the amendment to Act No. 187/2006 Coll., on Sickness Insurance, as later amended, the Czech Social Security Administration issued **a new form for the care-giver's allowance** in connection with the closure of schools.

This new form combines the elements of the original application for the care-giver's allowance due to the closure of school facilities and care report and is simultaneously conceived so that it would also be possible to use it to apply the claim for the care-giver's allowance according to the valid legal regulation (i.e. for 9 or 16 calendar days).

The generation of a unique number for each application at the beginning is also new and helps the Czech Social Security Administration during the mass processing of requests. This number will be used for the easy identification of the benefit case and the pairing of documents for the processing of benefits.

Parameters of crisis care-giver's allowance:

- The care-giver's allowance according to the parameters specified below will be paid retroactively for the entire duration of the

extraordinary measures, i.e. from the 1st day of the need to care for the child.

- Parents caring for a child younger than 10 years old will have the right to the care-giver's allowance like the classic care-giver's allowance. The right to the care-giver's allowance also applies to care for dependent children participating in school attendance depending on the care of other persons (already from level I) without age restrictions and persons older than 10 years of age dependant on the care of other persons using the services of day and week care facilities and similar facilities.

- The amount of the care-giver's allowance will amount to 70% of the reduced daily assessment base.

- The minimum daily amount of the care-giver's allowance is newly set at CZK 400. This also applies for those who work full time, but the amount of the daily paid amounts would be lower than this limit.

- Apart from employees, people working on an agreement to complete a job or work performance agreement will also be entitled to the care-giver's allowance if they pay sickness insurance.

- The parents will be able to alternate in the care of the child without restriction. Just like in the spring, the condition that they will not be able alternate during the course of the same day will apply.

It will be possible to draw on the care-giver's allowance for the entire period of the school closure, though by 30 June 2021 at the latest. The right to the allowance expires with the termination of employment.

After the opening of the schools, the crisis care-giver's allowance will continue to apply for children who cannot participate in the lessons due to the ordering of quarantine in the family.

3. The renewal of the compensation bonus for self-employed persons and limited liability members with the predominant business activities in closed areas of the economy

Members in one or two-member limited liability companies (or multiple-member companies if it is a family company) and persons working on work performance agreements or agreements to complete a job will be able to request a compensation bonus as part of compensation of lost profits for self-employed persons in the amount of CZK 500 a day for each day of the immediate ban or restriction of business activities as a result of government measures in the period from 5 October 2020 to 13 December 2020 with the possibility of the automatic extension during the further continuation of the state of emergency.

Businessmen from the ranks of self-employed persons and limited liability companies that are mutually bound to closed fields can also apply for the bonus. This connection is given either by a long-term supplier-customer relationship (restaurant - supplier of ingredients), or the activity is inseparably linked with a closed operation (gym - fitness trainer). The key condition is the restriction of this linked activity by at least 80% during the bonus period. At the same time, this activity must be the dominant source of income for the applying subject. Persons working on work performance agreements or agreements to complete a job can apply if they pay sickness insurance (an insured agreement) for a period of at least 3 of the 4 preceding months.

Other legal conditions that the member of a small limited liability company must fulfil:

- must be a member as at 5.10.2020
- must be a resident of the Czech Republic or a resident of an EU/EEA country fulfilling all the conditions specified in Section 35ba (2) of the Income Tax Act

- must not be in bankruptcy in the bonus period and must not be an unreliable payer or unreliable person pursuant to the Act regulating the value added tax

So far, the program is divided into three bonus periods. The first bonus period is the period from 5 October 2020 to 4 November 2020 (up to 31 days, i.e. CZK 15 500). The second bonus period is the period from 5 November 2020 to 21 November 2020 (up to 17 days, i.e. CZK 8 500). The third bonus period is related to the extension of the state of emergency and is set for the period from 22 November 2020 until 13 December 2020 (up to 22 days, i.e. CZK 11 000). The request can be submitted up to 2 months after the end of the relevant bonus period. The compensation bonus will be paid by the tax office according to the place of residence/stay in the Czech Republic.

And what else is being planned:

Cancellation of the super-gross wage

We are monitoring the development of the approval of the tax package for the year 2021. It primarily includes a proposal for the cancellation of the super-gross wage and a change in the calculation of the income tax. The proposal counts on the introduction of personal income tax rates in the amount of 15% calculated from the gross wage. The second increased rate in the amount of 23% should replace the solidarity surcharge. Income above CZK 141 764 per month, which corresponds to 4 times the average monthly gross wage, would be taxed by this rate. The proposal was approved by the Chamber of Deputies on 19.11.2020. The simultaneous approval of an increase in the basic discount for taxpayers from the currently valid CZK 24 840 to CZK 34 125 (the amount is derived from the average wage for the year before last) surprised everyone.

The meal voucher contribution was also approved in Parliament as part of the package. Thus, employers will be able to provide a contribution for meals directly in

monetary form in addition to corporate canteens and meal vouchers. The current meal voucher system will be preserved in full. The contribution from the employees to the employees will continue to be exempt from tax and insurance.

The tax package still has to pass through the Senate. The reading is planned for 10 or 11 December 2020. Thus, we still have to wait for the final form of the taxation of employees' wages next year. We will inform you about the result.

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