

## **LUXEMBOURG INTRODUCES EXTRAORDINARY LEAVE FOR FAMILY REASONS IN RESPONSE TO CORONAVIRUS**

Luxembourg has introduced several measures to deal with the outbreak of Coronavirus (Covid-19).

Among these measures, a draft Grand Ducal Regulation (“Draft GDR”) was first adopted to amend the Grand Ducal Regulation of 10 May 1999 (“GDR of 10 May 1999”) defining diseases or deficiencies of exceptional gravity pursuant to Article 15, Paragraph 2 of the Law of 12 February 1999 establishing parental leave and leave for family reasons (congé pour raisons familiales).

Article L.234-52 of the Luxembourg Labor Code indeed provides that the standard leave for family reasons can be extended for children suffering from a disease or deficiency of exceptional gravity, as defined by a grand ducal regulation.

According to Article 1 of the GDR of 10 May 1999, such diseases have so far been defined as progressive cancer diseases and other pathologies resulting in acute hospitalization for a period exceeding two consecutive weeks.

The Draft GDR was submitted to the emergency procedure to react to the government’s announcement on Thursday, March 12th, 2020 to close the education, higher education institutions and care facilities as from March 16th and for a period of two weeks, until further notice. The Draft GDR was thereafter published in the Memorial A (Official Journal of the Grand Duchy of Luxembourg) on Friday evening, March 13th, 2020. It entered into force on the day following its publication in the Memorial A.

### **What are the new features and their consequences?**

Article 1 is supplemented by a leave (in addition to the existing one for progressive cancer and pathologies resulting in a two-week acute hospitalization) available in situations in which a parent can no longer go to work because he/she has to keep his/her children under 13 years of age quarantined upon the order of the competent authorities. The purpose of this new provision is to limit the spread of an epidemic, including infectious diseases such as Coronavirus/COVID-19.

Even if Article 1 refers to the “quarantine” of a child, the provision also applies – as per guidance published by notably the Luxembourg Ministry of Social Security<sup>1</sup> and on the government’s website Guichet.lu<sup>2</sup> – to situations resulting from the closure of the various school and care structures (as will be the case for the next few days).

<sup>1</sup> [https://gouvernement.lu/fr/actualites/toutes\\_actualites/communiqués/2020/03-mars/13-formulaire-certificat-covid19.html](https://gouvernement.lu/fr/actualites/toutes_actualites/communiqués/2020/03-mars/13-formulaire-certificat-covid19.html) and [https://gouvernement.lu/fr/actualites/toutes\\_actualites/communiqués/2020/03-mars/14-crf-infos-supp.html](https://gouvernement.lu/fr/actualites/toutes_actualites/communiqués/2020/03-mars/14-crf-infos-supp.html)

<sup>2</sup> <https://guichet.public.lu/fr/actualites/2020/mars/13-conge-raisons-familiales-covid-19.html>

Several conditions must be met. First of all, as the name suggests, this leave is extraordinary, so that it should only be taken by a parent when there is no other option to care for his/her children (including the possibility of teleworking, or childcare by other persons who are not vulnerable or at risk). In addition, the parent wishing to benefit from this leave must be affiliated to the Luxembourg social security system, whether he/she is a resident or not. Finally, both parents cannot use this leave at the same time, but it is possible to alternate the leave if necessary, each having to submit a request via a specific form<sup>3</sup>.

Regarding the relevant form, the names and national identification numbers of the parent and his/her children are to be mentioned, without it being necessary to indicate precisely the start and end dates of the leave, which have to be communicated only to the employer.

As far as the procedure is concerned, the parent must promptly inform his/her employer on his/her first day of absence, orally or in writing, and then complete the form (which has the same value as a medical certificate), sign it and forward it to his/her employer and to the National Health Fund (Caisse Nationale de Santé or "CNS").

Finally, one should point out that this extension of leave is expected to be available for ten working days, which corresponds to the two-week closure of establishments. However, this quota can be expected to increase if the closure is extended. Specific measures for children with disabilities over the age of 12 will also be introduced very soon.

The extraordinary leave for family reasons cannot be refused by the employer if the above-described conditions are met. The extraordinary leave is assimilated to a sickness leave with the consequence that the employee is entitled to the same remuneration than the one he/she is entitled to on sickness leave. For the same reason, the employee cannot be dismissed or invited to a preliminary meeting during the extraordinary leave.

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<sup>3</sup> <https://guichet.public.lu/dam-assets/catalogue-formulaires/conge-enfant-malade/conge-enfant-malade-covid-19/demande-conge-raisons-familiales-covid-19-en.pdf>

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