

LUXEMBOURG INTRODUCES ADDITIONAL EMPLOYMENT-RELATED MEASURES IN RESPONSE TO CORONAVIRUS

The Government adopted new measures during the extended state of crisis, again in response to the spread of COVID-19.

First, with the Grand-Ducal Regulation of 27 March 2020¹ introducing a derogation from Article L.211-12 of the Labour Code, the maximum weekly working hours have been increased from 48 to 60 hours, with a limit of 12 hours per day. This new provision applies to activities essential to the maintenance of the vital interests of the population and the country covered by the GDR of 18 March 2020.

Fourteen sectors are involved, including the medical, food supply and transport sectors. In order to do so, the company must send a duly reasoned request to the Minister of Labour (by post or electronically), fulfilling five conditions, namely the requested maximum daily or weekly working time, the number of employees concerned, the opinion of the staff delegation (or the unions' opinion requested by the Minister), the justification for the use of the derogation and a description of the expected beneficial effects. Any requested derogation should be limited to what is essential and strictly necessary. The period of validity of the authorization shall be limited to the duration of the state of crisis.

Concerning students, another Grand-Ducal Regulation came into force on the same day², derogating from Article L.122-1 paragraph 3 of the Labour Code. It specifies that for fixed-term contracts concluded between an employer who is active in one or more of the economic fields listed in the aforementioned GDR of 18 March 2020 and a student, the weekly work duration may not exceed 40 hours on average over a period of one month or four weeks. This exceptionally derogates from the maximum weekly duration of 15 hours over a period of 1 month or 4 weeks, as provided for by the aforementioned Article.

Further, the scope of the extraordinary leave for family reasons³ has been slightly reduced through the Grand-Ducal Regulation of 27 March 2020⁴. Henceforth, an employee may only claim, for the duration of the state of crisis, the leave for family reasons on condition that neither the requesting employee, nor the other parent, nor any other member of the household in question falls under the short-time working scheme during the period for which the leave is requested and that no other means of care are available.

¹ <http://legilux.public.lu/eli/etat/leg/rqd/2020/03/27/a205/fo>

² <http://legilux.public.lu/eli/etat/leg/rqd/2020/03/27/a205/fo>

³ Further details in our contribution on the new Extraordinary Leave for Family Reasons:

<https://www.cliffordchance.com/briefings/2020/03/extraordinary-leave-for-family-reasons-in-response-to-the-covid-19>

⁴ <http://legilux.public.lu/eli/etat/leg/rqd/2020/03/27/a203/fo>

Thus, as of Monday, March 30, it is no longer possible to use the extraordinary leave for family reasons for persons on short-time working or even if the other parent or any member of the household is on short-time working.

For those who currently benefit already from the extraordinary leave for family reasons, it will be necessary to apply once again, using a new form⁵.

Regarding the medical field, the new Regulation of 27 March 2020⁶ derogating from Article 3 paragraph 1 of the amended Law of 25 March 2015 determining the regime and allowances of State employees allows persons in a medical or paramedical profession to provide only a copy of their authorization to practice to be hired on a fixed-term basis as a State employee for the purposes of health crisis management.

Lastly, according to another Regulation of 27 March⁷, which inter alia derogates from Article L. 521-1 paragraphs 1 to 5 of the Labour Code, rights to unemployment benefits expiring during the state of crisis declared by the Luxembourg Government are extended until the end of the state of crisis, because unemployed persons do not have the possibility of finding a new job.

This measure also applies to trainings, which, if interrupted, do not result in the cessation of unemployment rights.

⁵<https://quichet.public.lu/dam-assets/catalogue-formulaires/coronavirus/conge-enfant-malade/conge-enfant-malade-fr.pdf>

⁶<http://legilux.public.lu/eli/etat/leg/rqd/2020/03/27/a208/1o>

⁷<http://www.legilux.lu/eli/etat/leg/rqd/2020/03/27/a206/1o>

CONTACTS



Albert Moro
Partner

T +352 485 050 204

E albert.moro@cliffordchance.com



Isabelle Comhaire
Counsel

T +352 485 050 402

E isabelle.comhaire@cliffordchance.com



Ada Schmitt
Senior Associate

T +352 485 050 435

E ada.schmitt@cliffordchance.com

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

www.cliffordchance.com

Clifford Chance, 10 boulevard G.D. Charlotte,
B.P. 1147, L-1011 Luxembourg, Grand-Duché
de Luxembourg

© Clifford Chance 2020

Abu Dhabi • Amsterdam • Barcelona • Beijing •
Brussels • Bucharest • Casablanca • Dubai •
Düsseldorf • Frankfurt • Hong Kong • Istanbul •
London • Luxembourg • Madrid • Milan •
Moscow • Munich • Newcastle • New York •
Paris • Perth • Prague • Rome • São Paulo •
Seoul • Shanghai • Singapore • Sydney •
Tokyo • Warsaw • Washington, D.C.

Clifford Chance has a co-operation agreement
with Abuhimed Alsheikh Alhagbani Law Firm
in Riyadh.

Clifford Chance has a best friends relationship
with Redcliffe Partners in Ukraine.