

# Employment retention aid

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# Introduction

The below expert summary contains the main aspects of the employment retention aid adopted by the Hungarian Government, including:

- (i) the conditions for the assumption of salary by the Hungarian Government;
- (ii) the rules of application for the assumption of salary by the Hungarian Government
- (iii) the amendment of the previously adopted labour law rules in connection with the state of emergency.

# Conditions for the assumption of salary by the Government 1.

A **tax-free** state aid may be requested for the salary of employees who work in shortened working time, i.e., if, according to the employment agreement, amended after the publication of the state of emergency, the working time reaches 50%, but does not exceed 70% of the working time on a three-month average, calculated on the basis of the employment agreement before the amendment, but the employee shall work at least 4 hours per day. One of the conditions of the retention aid therefore is that the working time – in regard to the state of emergency – shall be reduced by at least 30%, but by not more than 50%.

The amount of the retention aid:

- 70% of the absence fee effective on 11 March 2020 for the shortened working time, where the decrease can be 30%, 40% or 50%;
- the maximum amount of the absence fee that may be considered for the above purposes cannot exceed 2-times the net minimum wage (i.e., 2 times the statutory monthly net of 107,065 HUF).

By way of example, the working time of a general full-time employee was “shortened” by 50%, and before the reduction the gross monthly salary of such employee was HUF 400,000 (net HUF 266,000):

- as the working time was shortened by 50%, the employer reduced the amount of salary by 50% (net HUF 133,000). 70% state aid can be applied for the lost net salary of HUF 133,000, but the above net ceiling of HUF 107,000 must also be taken into account, i.e., only up to 70% of the aid can be applied for, in the amount of HUF 75,000.

In addition, the salary for 30% of the shortened working time (in this case 6 hours per week) payable for the exemption from work for individual development, must be added to this amount, provided that the amount of salary, together with the state aid, must reach the employee's "original" absence pay, calculated with effect on 11.03.2020.

# Conditions for the assumption of salary by the Government 2.

## The conditions for the retention aid

The employee and the employer undertake to agree on shortened working hours and individual development time beyond the shortened working hours for at least the duration of the aid.

The employee shall undertake that

- a) he/she will work in shortened working time and
- b) should he/she find another employment, later, this will not hinder him/her in being employed by the employer again under the original terms and conditions of the employment agreement, namely in full working time;
- c) he/she will be at the disposal of the employer in the individual development time. The individual development time is 30% of the "lost" working time, during which the employee shall carry out development activities linked to his/her scope of work or the activities of the employer.

The employer shall undertake additionally that

- a) It retains the headcount of the employees during the term of the payment of the retention aid and for another month thereafter;
- b) during the term of the payment of the retention aid, it shall not order any extraordinary work;
- c) in line with the cooperation and information obligation, any changes affecting the conditions of the retention aid and the length of the shortened working time shall be reported to the labour authority within 2 working days;
- d) together with the retention aid the amount of the salary shall reach the amount of the absence fee;
- e) it shall pay a salary for the individual development time.

Furthermore, the employer shall comply with the preconditions of employment and the employment laws, and no winding-up, liquidation and bankruptcy proceeding shall be ordered against the employer with the final decree of the court. Moreover, there can be no other pending legal procedure aiming the termination of the employer.

# Applying for the assumption of salary by the Government 1.

## The conditions of the retention aid

In order to receive the aid, the employee and the employer must also prove that the following conditions are met:

- The employee :
  - a) shall not receive any other part-time employment allowance in respect of the same employment.
  - b) shall be employed by the employer at least from the date of the declaration of the state of emergency, and
  - c) shall not be spending his/her notice period.
  
- As for the employer:
  - a) it will employ the employee for shortened working time in order to keep the headcount of the employees and avoid redundancies;
  - b) in the application form the employer shall summarize the economic circumstances which form a basis for the employment of the employees for short-time work and that these are closely and directly connected to the COVID-19 epidemic, as well as the measures that the employer had and further intends to apply to bridge the adverse economic effects of the epidemic;
  - c) in connection with the above point, the employer shall also declare that it had **used all of its possibilities and made all efforts to rearrange working time and used the possible working time re-scheduling options;**
  - d) the employer has been operating for at least 6 months, and
  - e) the employer and the employee applying jointly for the state aid have not been provided with other allowances by the state aiming the creation or retention of jobs, further for employment of employees aiming R&D.
  
- Furthermore, the frame working time has expired or has been closed.

# Applying for the assumption of salary by the Government 2.

## How to apply for the aid?

- The employer and the employee shall file a joint request electronically;
- The amended employment agreement shall be attached;
- The application shall be submitted during the state of danger or within 1 month after its cessation;
- The employer must demonstrate that the economic rationale for part-time employment is directly and closely related to the state of emergency and provide credible evidence that the retention of employees is in the national economic interest in the context of its continuing economic activity.
- The request shall be filed electronically to the National Employment Service (NES) on the form to be published on its website;
- The labor law authority decides on the request within 8 working days from filing thereof;
- In case of an eventual rejection of the request, the documentation may be filed once again, however, the decision of the labor authority cannot be appealed.
- In the case of the cessation of the employment relationship, the aid shall be terminated.

## The aid cannot be applied for:

- In case the employer unilaterally reassigned the employee to a job or workplace (e.g. home office / teleworking) other than what is contained in the employment agreement, or to another employer, and in case of temporary agency work.

As the Decree enters into force on 16 April 2020, if the electronic form becomes available on the following day and the employer and the employee can make all declarations immediately and sign an agreement, the first decisions on the aid can be expected around 29 April 2020 at the earliest.

# Amendments to labour law rules

- - In view of the state of danger, the employer may unilaterally order a maximum working time frame of 24 months, the scope of which is not affected by the possible cessation of the state of emergency during its period;
- - There is no deviation from the Labor Code's requirement for minimum and maximum daily working time, and the same applies to the rules on daily and weekly rest periods and weekly rest days.
- Collective agreements which deviate from the above rules may not be applied during the time the Decree is in force.



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**1,400 of our colleagues work from home**



**The continuity of our business and our availability remain undistrupted**



**We provide special support to our clients - Covid-19 newsletters and webinars**

## Let's take care of each other!

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# Thank you!

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