LEGAL UPDATE

More detail about the Provisional Work Retention Emergency Measure

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This week the Dutch government has introduced a far-reaching measure: the "Provisional Work Retention Emergency Measure" to combat immediate liquidity issues that employers face as a consequence of an immediate and substantial decline in revenue. This morning we can provide more details by means of a Q&A that has been posted on the website of the central government (Dutch language only). In this legal update we list the headlines of this Q&A and provide explanation as to the consequences for employers active in the Dutch marketplace.

The aim of the new scheme is to compensate more employers, more quickly and more fully. The scheme is available to employers who have suffered a decline in turnover since 1 March. If the decrease in turnover is at least 20% from that moment on, they can apply for the scheme. Initially for 3 months, with the possibility to extend it by another 3 months.

For this period, the employer will receive an allowance for the total wage and salary bill, subject to a maximum of 90% (in the event of loss of complete turnover). The scheme is applied on a pro rata basis in the event that part of the turnover is lost, meaning: % loss of turnover x 90% x the total wage and salary bill.

The calculation of the total wage and salary bill also includes the wages of sick employees and standby workers, for example. For the time being, we have no reason to believe that a ceiling is in force, such as a maximum daily wage. Moreover, it is also not entirely clear which elements are included in the total wage and salary bill. The further elaboration of the scheme will tell.

It is important that there is no longer any relationship with the question of whether or not employees are at work. The scheme is also open to employees who continue to work in full. Moreover, it is not necessary to specify a reduction in working hours at the personal level, as was the case under the abandoned scheme. As a result, the new scheme is much more flexible; the employer can use the compensation as they see fit. In our estimation, this solves a major pressure point of the old scheme.

A condition for the scheme is that wages are paid in full and that no redundancies occur during the period of 3 months (and any extension of this period).

A number of rules apply with regard to accountability for the loss of turnover. As the actual loss of turnover (and also the actual wage and salary bill) can of course only be determined at the end of the 3-month period, an advance payment of 80% is made in the meantime.

Some rules also apply to employers who have already applied for or been granted a reduction in working hours. In short: if you have already applied for a reduction in working hours, your application will be converted into an application for the new scheme (and you will receive further questions). If you have already been granted a reduction in working hours, this will cease to apply after the first 6 weeks; it is not entirely clear whether you will still be eligible for the new scheme from 1 March. The elaborated scheme will tell.

The new scheme cannot yet be applied for at the moment, but Minister Koolmees has made it clear that he appreciates its urgency and will introduce the scheme as soon as possible. The scheme can then be granted with retroactive effect to 1 March.

This is a Legal Update from Pieter Mantel.

For more information:

Pieter Mantel
+31 30 25 95 552
pietermantel@vbk.nl