

*This issue of our HR Newsletter will focus on the leaflet issued by the Czech Social Security Office, the measure of the Czech Social Security Office in connection with the influenza epidemic and the attitude of Ministry of Labor and Social Affairs to the employment of foreigners. We will summarize news in the legislation area and will have a detailed look at the options for solving operational restriction. We will also cover some of your most common questions*

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## News

### Changes in the pension insurance

From 1 January 2010, there will be relatively significant changes in area relating to pension insurance. Therefore the Czech Social Security Office (CSSZ) issued an information leaflet entitled „Changes in pension insurance from 1 January 2010“. The information leaflet is available (for free) at all offices of the CSSZ and also electronically on its web page. The leaflet comes with information about the changes in the area of proper old-age pension claims (pensionable age, insurance period), claims for early old-age pension, changes in the concept of disability pensions etc. We will be pleased to answer your questions you might have about this topic in the next HR Newsletters.

### Measure of the CSSZ

In connection with influenza epidemic and following the declaring of emergency measures in the Moravian-Silesian, Zlín and Karlovy Vary regions, the CSSZ now allows doctors in the mentioned regions to decide about temporary disability to work due to influenza and diseases with similar symptoms retrospectively for up to 5 calendar days. This procedure will apply on temporary disability to work issued during the applicability of the emergency measures declared by the main hygienist of the CR in relation to epidemics of influenza illness. For respiratory problems thus, it is not necessary to immediately visit a doctor in order for them to issue a decision on temporary disability to work but only to contact the doctor by telephone. Once the worst symptoms of the disease subside, it is then necessary to visit the doctor to obtain a decision

on temporary disability to work, within 5 calendar days at the latest. When deciding about temporary disability to work retroactively for a period longer than 5 calendar days, employees should continue to apply in individual cases to the relevant CSSZ office for prior written consent.

## From legislation

### The government rejected the renewal of the first days of illness payment

The government rejected the proposal regarding renewal of the payment for the first three days of illness, since such action would be contrary to the anti-crisis package. This proposal has been tabled before the Chamber of Deputies by ČSSD. Under the rejected proposal the employees would have received for the first three days a compensation of 30% of their average salary. This compensation should have been paid by employers, who would have received a half percent cut in social security contributions. Despite the negative opinion the proposal will be considered by the Deputies.

### Maternity pay will decrease in the end

Maternity allowance will most probably decrease by 20% from 1 January 2010. According to the approved Janota's saving package, it is a temporary measure only for 2010. If the proposal of KDU-CSL passes through however, the maternity allowance would return to this year's level much earlier. Despite it is highly likely that the proposal for not decreasing the maternity allowance passes through the House of Parliament, it will not be earlier than in the first months of 2010. We will keep you informed about developments.

This newsletter is intended to keep clients and friends of Contract Administration generally informed of current employment related issues in Czech Republic. It is not intended to give advice. Readers are recommended to take formal advice before contemplating any decision or action related to any item of information appearing in this newsletter.

## From legislation

### The position of the Ministry of Labor and Social Affairs to employment of foreigners

On 13 November 2009 The Ministry of Labor and Social Affairs (MLSA) published a press release – The position of MLSA in regard to the employment of foreigners, which refers to the conditions of employment of foreigners in the CR, the regulation of employment of foreigners by the labor offices, etc. MLSA seeks to meet the needs of employers and of course, prefers not forgetting to adhere to the priority of Czech citizens and other citizens of the EU. At the same time the MLSA undertakes effort to ensure that foreigners are working legally and under decent conditions in the CR and also to prevent their abuse. In addition to the control mechanisms, the MLSA has been developing prevention tools, especially sources of information for foreigners and employers. As an example the MLSA integrated portal can be mentioned.

Labor offices regulate entry of foreigners into the Czech market. The authority allows employing a foreigner from a third country (i.e. outside the area of EU / EEA and Switzerland) only on a vacant place, which could not be occupied by an applicant from the CR or from EU / EEA or Switzerland.

Labor offices have inspected 1.035 firms in the first half of 2009 which employ foreign employees. Inspections have detected irregularities with regard to the employment of foreigners with approximately one quarter of employers. Inspectors screened a total of 14.471 foreign employees. In 42% of cases defects have been detected in employment in CR and approximately 16 % of foreigners have been actually working illegally here. They were mainly the citizens of Ukraine and also Vietnam. The majority of employers failed to meet notification duty towards labor offices (3.777 cases – mainly Slovaks).

## Your inquiries...

**„I would like to ask what is the protective period in case of maternity? In our case: a pregnant employee has been employed since 2005, her employment will cease at the end of April 2010 and childbirth term should be in June 2010. Does she have an entitlement to maternity pay? “**

Under the Act No. 187/2006 Coll., on sickness insurance, the protective period for women whose insurance has expired (the employment ceased) during the pregnancy is 180 calendar days from the date of insurance expiry. If the woman becomes insured again during the protective period (she starts new employment subject to insurance), the protective period is not running for the duration of this new insurance and outstanding protective period from previous insurance is added to the protective period obtained based on this new insurance, however up to the maximum of 180 calendar days. In your case the protective period runs from 1 May 2010 and lasts until 27 October 2010. The entitlement for maternity allowance will consequently arise in this protective period.

**„What are the changes in system of payments from November 2009?“**

From 1 November 2009 there is the change in definition of the conception of “payment date”. Now the payment date is considered to be the date when the payment was credited on the recipient’s bank account. There are two exceptions which relate to the social and health insurance where this change is valid from 1 January 2010 (attention –applicable already on the payments for December 2009). Further in respect of health insurance the original term (company payment day) changed and the insurance is payable from 1<sup>st</sup> to 20<sup>th</sup> day of the following month.

## Issues affecting you ...!?

### Labor-law options for solving operational restrictions

In this issue of our HR Newsletter we would like to inform you about the options that the employer has in the cases when there is not enough work for the employees to „fulfill“ their determined weekly working time.

#### ❖ Unpaid leave

From a legal point of view it is an obstacle on the side of an employee who applied for unpaid leave and the employer has granted it (without agreeing that the employee will make up for the time off later on). In this case the employees' working time is not reduced, but their salary is reduced proportionally to the time not worked for this obstacle. For the purposes of sickness insurance, the working shifts, which are not worked due to this obstacle, are taken into the account for providing salary compensation during first 14 days of sickness. For the purposes of health insurance, there is a rule that for the time off provided without a wage compensation the insurance is to be paid from a proportional part of the minimum wage.

It is obvious that this solution can only be applied where there is an agreement between employer and employee. Often employers, who initiated taking of unpaid leave, compensate employees for obligatory minimum health insurance (attention! Compensation is subject to all taxes).

#### ❖ Shorter working hours

From a legal point of view it is a type of working time scheduling where there is contracted working time shorter than the determined weekly working time at the particular employer is. Under the § 80 of the Labor Code an employee is entitled for the salary that is proportional to the shorter working time. In this case also, there has to be a mutual agreement of employer and employee,

*If you would have some questions to the payroll or HR agenda please ask! We will be pleased to contact you.*

*The most burning questions and answers will be published in the next HR Newsletters.*

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in practice often in a form of work contract amendment. We find this solution to be the less favorable towards the employee as beside reduction of the salary also the vacation allowance has to be shortened and for the purposes of sickness insurance, the working shifts, which are not worked due to shortened working time, are not taken into the account for providing salary compensation during first 14 days of sickness.

#### ❖ Partial unemployment

From a legal point of view it is „other obstacle in the work“ on employer's side consisting in the fact that employer can not assign work to employees in the range of determined working time due to restriction of production or restriction of demand for its services. The employee in such a case is entitled for the salary compensation. The compensation can be reduced up to the 60% of the employee's average earnings. It is a legal requirement that there has to be an agreement between employer and trade union (if it acts). (Contrary of the previous Labor Code), it is now possible to use this option also for employers where trade unions do not act and that is on the basis of labor office decision. The salary compensation is then 60% of the employee's average earnings for the period determined by the labor office (1 year maximum). The purpose of partial employment consists in employer's possibility to reduce salary cost during period of economic crisis and thus, if possible, to avoid ceasing employments due to redundancy. From all the three options of operational restrictions mentioned here, this solution we consider to be the most optimal for the employee, as during the restriction of working hours employee is entitled for salary compensation and also during first 14 days of sickness the sickness compensation is provided also for the shifts which on this account do not take place; according to § 192 of the Labor Code.