

Notice to Employers on Covid-19

These are unprecedented and fast moving times in which we find ourselves. Our Country is facing into uncertainty and looking for assistance and guidance.

In our Taoiseach's, Nation address of 17th March, he commented:

“Some people watching will have seen their jobs lost... businesses closed... or their working hours reduced. More will be worried that this might happen to them too... especially as we do not know when the Emergency will end. I know this is causing huge stress to you and your families... While we do not have all the answers now... we are doing and will do all we can to help you through the time ahead.”

Here at ARAG we want to play our part and have produced the following summary of your rights as an Employer and to try to explain the options available.

Covid-19 – Employer and Employee Rights

Where the Government has mandated a closure of a business or part of a business, this is not an automatic Lay off or Short Time situation. It is up to each individual employer to decide if the matter is a Lay Off or Short Time, that is do they have work available or some work available.

If an employer is requested employees to continue to work it is important to note that Employers have a legal obligation to ensure the safety, health and welfare at work of their employees under the Safety, Health and Welfare Act (the 2005 Act).

Employers should carry out a risk assessment to identify the risks of a coronavirus outbreak at work and implement steps to minimise that risk.

Lay Off

A lay-off situation arises where the employer is temporarily unable to provide work for an employee(s). An employer can lay off employees if it is in the contract of employment or it is custom and practice in the employment and must be agreed by the employees. This must be a temporary situation and the employer must notify employee(s) before the reduction in hours / pay starts. Redundancy Form RP9 may be used for this purpose. Where an employer fails to give notice of lay-off, he leaves himself open to claims for statutory redundancy payments.

If an employee(s) do not agree to Short-time or Lay off the employer could seek to make employees redundant. If a short-time or lay off situation exists and has continued for 4 weeks or more, or for 6 weeks in the last 13 weeks, and the employer cannot guarantee at least 13 weeks employment, the employee may be able to claim redundancy. This is considered voluntary redundancy and the employee is not entitled to notice or pay in lieu of notice.

There is no limit on the number of times an employer may put an employee on short-time or lay off, as long as the employer can guarantee at least 13 weeks employment. However, if it becomes apparent that the short-time or lay off is no longer temporary then the situation could be considered a redundancy.

Your employer may decide to close their business for this period and send you home. This is called a temporary lay-off. If your employer cannot pay for this period, you can apply for a special [new COVID-19 Pandemic Unemployment Payment](#).

The payment will be available to all employees and the self-employed who have lost employment due to a downturn in economic activity caused by the COVID-19 pandemic. The payment has a simple one-page application form and will be paid for a period of 6 weeks at a flat rate payment of €203 per week for jobseekers.

The Government has asked those employers who have ceased trading if at all possible, to continue to pay workers during this period – at least at the jobseeker rate of €203 per week. The Department of Employment Affairs and Social Protection is setting up a refund scheme for employers to pay staff the €203 per week for each worker. This means that workers retain their link with employers and there is no need for them to submit a Jobseekers claim.

This is a temporary payment to help you immediately. You will also need to apply for another social welfare payment such as [Jobseeker's Benefit](#) or [Jobseeker's Allowance](#).

Short Time

If your employer reduces your hours to 3 days or less per week from your normal full-time hours, you can apply for a payment called [Short Time Work Support](#) which is a form of Jobseeker's Benefit.

Your employer can also put you on short-time working which is a more formal procedure and applies in the following situation:

- Due to a reduction in the amount of work to be done, your weekly pay is less than half your normal weekly pay or
- Your hours worked are reduced to less than half your normal weekly working hours

Both provisions apply where contractual provision has been set out in the employment contract or documentation.

Both provisions are temporary in nature and an employee can request a redundancy if they continue for a period of four weeks.

If an employee is sick or has been asked to self-isolate

- An employee who is showing symptoms of COVID-19, should not go to work. An employee should contact a GP for advice.
- While the employee is sick with coronavirus, the normal sick pay provisions apply.
- If the employer does not operate a sick pay scheme, the employee can apply for enhanced [Illness Benefit](#) from the Department of Employment Affairs and Social Protection. An employee does not need to satisfy the usual PRSI conditions for Illness Benefit if they are off sick from work with COVID-19. This means that they will be eligible for the payment even if the employee has only recently started working.



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If an employee is sick or has been asked to self-isolate

- An employee may be advised by a GP to self-isolate before they have a formal diagnosis of COVID-19. This means that they have been asked to stay indoors and completely avoid contact with other people. An employee will be entitled to Illness Benefit if they have been medically advised to self-isolate.
- Enhanced Illness Benefit will be paid at a higher rate than Illness Benefit and is only available where an employee has been diagnosed with COVID-19 or if an employee has been told to self-isolate by a medical professional because of COVID-19.

If you have to care for someone who is sick with Covid-19 or have been told to self-isolate

If you are not sick, but you cannot go to work because you have to care for a sick child or other relative, you can ask for paid leave. If your employer cannot give you paid leave, you can ask for statutory leave. Statutory means that the leave is set out in law, for example, your right to parental leave.

Paid compassionate leave

All employers have been requested by the Department of Enterprise, Trade and Innovation to be as flexible as possible in assisting employees with care arrangements. This could include and should be reviewed by employers:

- Offering paid compassionate leave
- Allowing employees to work from home
- Altering shifts, so that employees can coordinate caring between employees and partners, or another person
- Allowing employees to rearrange holidays
- Allowing employees to take paid time off that you can work back at a later time

Statutory Leave

If none of the options are made available, an employee is entitled to apply for one of the statutory schemes below:

- [Force majeure leave](#) (this is paid leave)
- [Parental leave](#) if employee is looking after a child up to the age of 12 (or 16 if the child has a disability)
- [Parent's leave](#) if you are caring for a child up to the age 1 who was born after 1 November 2019

Employees are allowed to take 3 days force majeure leave in a 12-month period, or 5 days in a 36-month period. An employee can ask to take the full 5 days paid force majeure leave together.

The Department has suggested employers should look at waiving the 6 weeks' notice if employee's request to take parental or parent's leave. The employer does not have to pay employees when they are on parental or parent's leave. An employee can apply for [Parent's Benefit](#). Or for parental leave, employees can apply for means-tested [Supplementary Welfare Allowance](#).

Employees who have lost employment

The Department of Employment Affairs and Social Protection (DEASP) has announced a new COVID-19 Pandemic Unemployment Payment.

This new payment will be available to all employees and the self-employed who have lost employment due to a downturn in economic activity caused by the COVID-19 pandemic. The payment has a simple one-page application form and will be paid for a period of 6 weeks at a flat rate payment of €203 per week.

The Government (Department of Enterprise, Trade and Innovation) have published guidelines and advice for all business impacted see [dbei.gov.ie](#) titled Advice for Businesses experiencing trading difficulties as a result of Covid-19 setting out the measures implemented by Government during this period.

Important links

- An application form for the new Covid-19 Pandemic Unemployment Payment - www.gov.ie/jobseekers
- Jobseekers support through our online portal www.MyWelfare.ie, (you will need a Public Services Card)
- Contact Number - Phone on 1890 800 024 or 01 2481398 and the relevant application form will be sent out.

Contact

If you have any queries in relation to this topic or are looking for legal advice / assistance, please call ARAG on:

Legal Advice Helpline – **1850 670747**

Counselling Helpline – **1850670407**

Website – **www.arag.ie**

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