

Information: Exemption from Wage Labour due to the Corona-Pandemic



When can I / when do I have to stay away from work? Who pays my wages and in which case? My child is unattended due to the daycare closure and no replacement can be found. What are my rights and obligations? In principle, labor lawyers will probably be dealing with individual cases for a very long time. Anyhow, here is a brief overview of the present situation – based on our current state of knowledge:

If I am sick myself:

Of course – the usual procedure for incapacity to work applies here. However, if it is a corona infection, you should inform the boss that you have or suspect a corona infection, so that he*she can take appropriate measures to protect against further spread.

When the day care center / school is closed:

If you have parental care for a child and the childcare option ceases, you have to take care of yourself. According to the general risk assessment, grandparents of a certain age should currently not do the care. According to § 616 BGB, the wage earner is entitled to a paid leave for a short period (approx. 5 days), if he*she is prevented from performing the service through no fault of his*her own. Yet, you have to clarify this for the specific individual case.

If your boss leaves you free due to his own considerations:

If you are willing and able to work but your boss does not make use of the agreed workforce, of course, he*she is still obliged to pay the agreed wage.

If you are not ill but have to be quarantined because an authority issues a ban on employment:

Usually you should continue to be paid and your boss can refund the money; except when continued payment of wages is excluded by a collective agreement ('Tarifvertrag') or employment contract. However, if you are actually sick, the usual procedure for sickness applies again.

If your boss wants you to get rid of your overtime first:

If you have a workers' council in your company, your boss cannot order overtime or reduce overtime without the consent of the council. Many bosses claim that they can demand the reduction of overtime during emergencies. However, an emergency only exists if there is 'a very unusual risk to the operating systems, goods, or workplaces'.

If your boss wants to change your employment contract:

If your boss wants you to sign a contract of termination or change the existing employment contract, do not simply sign it! Always seek advice from the workers' council or the union you trust.

If you work as a freelancer or in fictitious self-employment:

Under certain circumstances (quarantine or business decommissioning) you can apply for compensation. In addition, it may be worth to check whether you are, in fact, not an employee of a company in the sense of labor law after all.

If you have any further questions, please feel free to contact your contact person at FAU Marburg ~ Gießen ~ Wetzlar in the company.

Solidary greetings,
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