COVID-19 Ordinance: New employment rules for high-risk employees

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On 16 March 2020 the Federal Council issued the Amendments to the COVID-19 Ordinance 2 of 13 March 2019, dealing with certain measures to prevent the further transmission of the disease (fully replacing the COVID-19 Ordinance of 28 February 2020).

The Amendment entered into force on 17 March 2020 at 00.00 CET. The Ordinance introduces, inter alia, a new level of protection for employees particularly vulnerable to COVID-19, namely employees older than 65 or employees with medical conditions such as high blood pressure, diabetes, cardiovascular diseases, chronic respiratory diseases, diseases and therapies that weaken the immune system, and cancer (so called "particularly vulnerable employees").

Under the Amendment, employees who are particularly vulnerable have to work from home. Should remote working not be possible, the employer will have to put these employees on special paid leave.

The employees have to notify the employer whether they qualify as particularly vulnerable. The employer is entitled to request a medical certificate confirming such status.

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For Swiss employers this means:

1. **Employees who are above the age of 65 are prohibited from coming to the office.**
2. **Employers have to ask all their employees to provide them with a written personal declaration of whether they suffer of one of the above mentioned illnesses or whether they have another illness that they think makes them particularly vulnerable in the context with COVID-19.**
3. **All the employees who qualify as particularly vulnerable are prohibited from coming to the office.**
4. **The employer will have to treat the declarations strictly confidential. As soon as the COVID-19 risk situation is no longer active the employer will have to clean-up the employee's personnel file and delete the declaration.**

While violations of these rules are not subject to criminal sanctions (unlike violations of article 6 of the Ordinance – prohibition of events and operations) employers have to strictly comply with these rules.

No legal or tax advice

This legal update provides a high-level overview and does not claim to be comprehensive. It does not represent legal or tax advice. If you have any questions relating to this legal update or would like to have advice concerning your particular circumstances, please get in touch with your contact at Pestalozzi Attorneys at Law Ltd. or one of the contact persons mentioned in this Legal Update.

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