

COVID-19 Ordinance: Salary entitlements of high-risk employees unable to work remotely

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The [COVID-19 Ordinance 2](#) of 13 March 2020 (updated on 16 March 2020) stipulates, among other measures, that high-risk employees have to work remotely and that they are not allowed to come to their usual workplace ([see Legal Update from 17 March 2020](#)). The employer has to put high-risk employees who are unable to work remotely on 'leave with continued salary payment'.

This briefing note discusses the salary entitlements of high-risk employees unable to work remotely. The employer could either ask for short-time work ("Kurzarbeit") for high-risk employees unable to work remotely. Under the Swiss short-time work regime, the respective employees will have to consent to this approach. Alternatively, the employer could take the following approach regarding the two categories of high-risk employees:

1. Employees with certain medical condition:
Through implementing these measures, the Federal Government declared high-risk employees unfit to work (unless they can do so remotely). Therefore, the usual rules apply with regard to the continued payment of salary in the event of inability to perform work: Employees who are unable to perform work are entitled to their salary for a limited period of time. The length of the salary entitlement period depends on the years of service in accordance with applicable calculation tables ("Skalen"). If the employer has taken out daily sickness insurance, the latter covers the payment of the salary.
2. Employees aged 65 and over:
They will also be entitled to continued payment of salary for a limited period of time, but will not be subject to daily sickness insurance coverage.

The employer has to put high-risk employees, who are unable to work from home, on 'leave'. This 'leave' does not qualify as holiday. However, employers can still unilaterally order the taking of holidays.

For Swiss employers this means:

1. **High-risk employees have to work remotely.**
2. **The employer has to put high-risk employees who are unable to work remotely on leave. During such leave, the employees are entitled to continued payment of salary for a limited period of time only.**
3. **For employers who have taken out a daily sickness insurance, high-risk employees unable to work remotely will have to be covered by such insurance.**

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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