



Partial unemployment and COVID-19

On 20 March 2020, the Federal Council decided to grant support of more than CHF 40 billion in the form of emergency economic aid and reduced working hours compensation for the payment of salaries. The aim of reduced working hours is to avoid the termination of work contracts. The following is a summary of the conditions to be met in order to be entitled to get a reduced working hours compensation.

1. Can the employer use reduced working hours to safeguard jobs? Under which conditions?

Answer: These issues are particularly complex and cannot be summarized without giving some precision. Nevertheless, for information purposes, we can indicate the following.

Entitlement to a compensation is only granted if the reduction in working hours:

1. Is likely to be temporary ;
2. Will allow the jobs in question to be maintained ;
3. Is due to economic factors ;
4. Involves a reduction of at least 10% in the hours normally worked by all workers in the business (or sector of operation) entitled to a compensation;
5. Is accepted by the employees ;
6. Is subject to an announcement and a request to the competent authority made by the employer before the start of the reduced working hours. In view of the coronavirus situation, the Federal Council abolished the notice period with effect from 17 March 2020.

Loss of work caused by measures taken by the authorities or due to other reasons beyond the employer's control shall be taken into consideration if the employer has been unable to prevent it by appropriate and economically bearable measures or has been unable to hold a third party liable for the damage. Reduced working hours shall be reserved as a priority for undertakings, which, due to the nature of their activities, are not in a position to enable the employee to work from home.

2. Justification of a request for reduced working hours

Answer: In order to justify the request for reduced working hours, the employer must complete the "Notice of Reduced Working Hours" form and answer the questions asked. However, if the employer can credibly explain by answering questions 9a (scope of business), 10b (monthly turnover in the last two years), 11a (reasons for the reduction in working hours) and 11c (delayed orders) that the predictable expected loss of work is due to the occurrence of the coronavirus, he does not need to answer the other questions 9 to 12. Thus, it is therefore sufficient

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to submit the monthly turnover for the last two years and to underline whether and for what reasons these orders have been delayed, without further evidence.

3. What happens if an employee refuses reduced working hours?

Answer: An employee who refuses to accept reduced working hours may see his work contract terminated for economic reasons if the company is no longer able to pay him/her the full salary. However, the employer will still be obliged to pay the employee the contractually agreed compensation in the event of the termination of his/her work contract due to the economic situation. The provisions on wrongful termination are reserved.

4. Which employees are not entitled to reduced working hours?

Answer: Are not entitled to reduced working hours:

- employees whose employment contract has been terminated ;
- employees whose loss of work cannot be established or whose work schedule is not sufficiently controllable.

In view of the economic crisis, the Federal Council has decided to extend the right to compensation to the following persons (who were not entitled to it before 17 March 2020):

- workers on fixed-term contracts ;
- apprentices ;
- workers on assignment for a temporary employment agency ;
- persons who, within the company, occupy a position comparable to that of the employer. These may be, for example, the managers in a limited liability company who work in the company against a remuneration, persons working in their spouse's company or registered partners.

5. What does the reduced working hours allowance cover ?

Answer: The compensation in case of reduced working hours covers 80% of the loss of earnings to be taken into consideration for the lost working hours. Note that the maximum insured salary is CHF 12,350 per month.

For example, if an employer has to reduce the working time to 50%, the employer continues to pay the full salary for the 50% of the time worked, but only 80% of the salary for the 50% of the time not worked. This part is reimbursed by the unemployment fund.

6. What happens to employees working for the head office of a company whose income is generated primarily by foreign-based subsidiaries?

Answer: If the conditions listed under question 1 are met, the head office may apply for reduced working hours for its employees. Thus, if an employee working for the head office sees his or her working hours reduced by more than 10%, he or she will be entitled to reduced working hours compensation, provided the other conditions are met.

7. If compensation is paid, what are the employer's obligations?

Answer: The employer is bound:

- to pay the workers 80% of the loss of earnings on the regular payday;
- to continue to pay in full the social insurance contributions provided for by the legal and contractual provisions corresponding to normal working hours. Unless otherwise agreed, the employer is authorized to deduct from the employees' wages the full part of the contributions which are payable by them. The employer's share of social security contributions for lost hours shall be reimbursed by the unemployment fund.

8. For how long is reduced working hours compensation available?

Answer: Compensation is paid, per company, for a maximum of 12 accounting periods (i.e. approximately 12 months) within a framework compensation period of 2 years from the first day for which the reduced working hours compensation has been paid.

9. To whom has the application for reduced working hours to be made?

Answer: In Geneva, the application has to be filed with the Legal Service of the cantonal employment office. In view of the circumstances, it is recommended that the application and its attachments are sent in advance by e-mail to: rht@etat.ge.ch.

Upon notice of the cantonal employment office, the employer will have to send his claims for compensation to the unemployment fund of his choice by means of monthly statements.

10. Chronology

	Steps	Documents	When?
1	Submission of the form "notice of reduced working hours COVID-19" to the cantonal employment office of the canton in which the company or sector of operation is established.	Form "Notice of reduced working hours COVID-19"	As soon as possible
2	Notice (positive or negative) from the cantonal employment office.	Decision of the cantonal employment office	Approximately 2 to 3 days after sending the form listed under step 1
3	Payment of 80% of the salary by the employer corresponding to the employee's loss of work.	Payslip	Each month
4	Submission of the claim to the unemployment fund chosen by the employer.	- Statement of reduced working hours; - Report on hours lost for economic reasons; - Excel sheet containing employees' information.	Each month
5	Repeat steps 1 to 4 twice a year.	Documents mentioned above	10 days before the end of the 6-month period

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