

Short-Time Employment Allowance and Legislative Amendments Made Due to COVID-19 Pandemic

31 Mar 2020

Short-time employment has been regulated in the Unemployment Insurance Law numbered 4447 and the Short-Time Employment and Short-Time Employment Allowance Bylaw ("**Bylaw**"). If the working hours of a workplace is reduced by at least 1/3 or the operations stop for at least 4 weeks due to a general economic, sectoral or regional crisis, or force majeure, it will be deemed as "short-time employment".

Article 3/1-h of the Bylaw defines force majeure as "Causes which are not based on employer's conducts, which cannot be predicted and thus are impossible to avert, and result in temporary shortening of working hours or complete or partial suspension of operations, such as earthquakes, fires, floods, epidemics, war, etc".

If the weekly working hours have significantly decreased or the operations have stopped due to reasons stated above, the employer will have the right to inform and apply to the Turkish Employment Agency ("**Agency**") and the Union (if any) in order to request short-time employment allowance. The Agency will start to pay a certain percentage of the employees' salaries, if it approves the employer's application after evaluation.

The requirements for employees to receive short-time employment allowances have been amended as per Temporary Article 23 which has been added to the Unemployment Insurance Law numbered 4447 in accordance with Article 41 of the Law numbered 7226 ("**Law**") which has been published in the Official Gazette number 31080 and dated 26 March 2020. In accordance with the new amendments, until 30 June 2020, while their employers are submitting short-time employment applications due to COVID-19, the employees;

- Are required to be subjected to an employment agreement for 60 days prior to the commencement date of the short-time employment and
- Must have been working fully insured for 450 days within the last 3 years and their unemployment premiums must have been paid.

It must also be stated that for the employees to be eligible for this allowance, their names must also be in the list which is to be submitted to the Agency.

Article 41 paragraph 2 of the above-mentioned Law states that employers should not terminate employment agreements during the short-time employment period in order to be able to benefit from the allowance. The same provision also states that the only exceptions of this rule are the reasons of rightful and immediate termination, which are specified under the title "Circumstances Against Moral and Good Faith Principles and Other Similar Circumstances" within Article 25 subparagraph (II) of the Employment Law numbered 4857.

The daily allowance for short-time employment is 60% of the daily (gross) salary of the employee, which also includes the premiums of the last 12 months. However, this allowance cannot exceed 150% of the monthly

(gross) minimum wage. The allowance is paid monthly and only to complete the missing weekly hours which cannot be performed. To give an example, if the working hours within a workplace has been decreased to 30 hours from 45 hours, the allowances will be paid only for the remaining 15 hours.

Under normal circumstances, the short-time employments can only be applied for 3 months maximum. However, if the employer has applied for a term shorter than 3 months, payment will be made accordingly. If the employer decides to continue its activities and return to normal hours before the term ends, he/she must inform the Agency, the employees and the union (if any) in written form, 6 working days before starting work. The short-time work ends on the date stated within the notice. If the Agency makes extra payments due to the late notification of the employer, such payments will be collected from the employer with legal interest.

Additionally, the Agency will stop the payment of allowances if the employee;

- Starts to work at another job while receiving the allowance.
- Starts to receive retirement pensions.
- Gets drafted to the military.
- Has to quit his/her job due to any legal obligation.
- Starts to receive benefits for temporary incapacity.

Lastly, it is advised to obtain a decision from the Board of Directors before applying to the Agency.

Please see this [link](#) for full text of the Law (only available in Turkish).

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