

Information on the government measures introduced up to 22 April 2020

Dear Partner,

Our office aims to keep you informed of any changes regarding the current extraordinary situation.

In this information, we present the measures taken by the Government and published in the official gazette *Magyar Közlöny* on 11 April 2020 in a consolidated structure with their amendments published on 22 April 2020:

1. If businesses are able to switch their employees to **part-time employment** with working hours reduced by maximum **75%** and expect to be able to continue employing them after the state of danger, they **can apply for a wage supplement subsidy for a period of 3 months. Maximum amount: HUF 112,418.** Based on the request and the declarations submitted jointly by the employer and the employees, the latter will receive the wage supplement directly from the government office (State Treasury). The subsidy is not automatic and is conditional. **Provided that the reduced working hours exceed half of the working time specified in their employment contract before the amendment,** employees must agree to be at the employer's disposal during the individual development time (30% of the working time reduction), and the employer must pay wages for this time (as well).

The State will pay a subsidy equal to 70% of the net wages lost as a result of reduced working hours (e.g. 35% if working hours are reduced by 50%). **If the reduced working hours exceed half of the working time specified in the employment contract before the amendment,** the subsidy is only due if the employer agrees to pay the remainder of the lost income to the employee, so that the employee's net wages do not fall short of the previous levels.

There are strict preconditions for applications for this subsidy and, moreover, if commitments are not complied with (e.g. if the employee headcount falls during the crisis or in the period of 2 months thereafter), the employer must repay the amount paid to employees directly by the government office.

Companies applying for the subsidy must evidence and/or represent that:

- they can *credibly* prove that their continued operation and the retention of the employees is in the interest of the national economy;
- for the employees concerned by the subsidy, they will not order extraordinary work (overtime) during the subsidy period
- they have not been condemned in a final ruling for a failure to register employees (employing them off the books) in the last 2 years;
- there is no final ruling establishing their obligation to repay subsidies awarded in a job creation and retention grant programme financed from EU funds; and
- they are not subject to an ongoing liquidation, voluntary liquidation or bankruptcy procedure.

(Detailed information and a description of the strict eligibility conditions is available in Section 1 entitled "Details of the subsidy for reduced-hours employment".)

2. The subsidy for the employees of **research and development companies is higher than the supplementary subsidy** for part-time employment (**see Section 2**) and is **capped at HUF 318,920 a month for a period of 3 months.**

(Detailed information is available in Section 2 entitled “Subsidies to employees in research and development”.)

We will continue to inform you as and when further detailed rules and new decrees are published.

THE DETAILED RULES:

1. Details of the subsidy for reduced-hours employment

(Government Decree 105/2020. (IV. 10.); the Decree enters into force on 16 April 2020.)

Within the meaning of the Decree (definitions)

a) **reduced working hours:** according to the employment contract amended after the declaration of the state of danger, this is **part-time working hours that, taken as an average across three months, reach twenty-five percent of the total working hours but do not exceed eighty-five percent** of the working hours stipulated in the employment contract prior to the amendment **(accordingly, the reduction in working hours that was previously set in min. 30% and max. 50% was changed to min. 15% and max. 75%, and the minimum requirement of 4 hours was deleted);**

b) **individual development time:** for the purposes of development related to the employee’s position or the employer’s operations, **during the term of the subsidy or during the two years following the subsidy**, the employee is exempted from their obligation to work to an extent equivalent to thirty percent of the working hours lost due to the reduction of working hours **(the text ‘during the two years following the subsidy’ was added to the Decree);**

c) **headcount retention obligation:** this is the employer’s obligation **to maintain the employment of the employee submitting a joint request with the employer (so the headcount retention obligation only applies regarding the employees applying for and benefitting from the subsidy);**

d) **employer:** employer as defined in Act I of 2012 on the Labour Code (hereinafter: Labour Code), **except** for the organisations listed in Section 1 of Act CLXXV of 2011 on Freedom of Association, Non-Profit Status and the Operation and Support of Civil Organisations (foundations, associations and public-benefit organisations as well as other organisations created pursuant to the right to freedom of association, as defined in the **Civil Code**); operators receiving budgetary subsidy as defined in Section 4 (1)(m) of Act III of 1993 on Social Governance and Social Benefits; operators receiving budgetary subsidy as well as welfare, child welfare and child protection service providers, institutions and networks as defined in Section 5(s) of Act XXXI of 1997 on the Protection of Children and the Administration of Guardianship; operators receiving budgetary subsidy as per Section 88 (4) of Act CXC of 2011 on National Public Education and operators receiving budgetary subsidy as per Section 84 (3) of Act CCIV of 2011 on National Higher Education;

e) **employee:** employee as defined in the Labour Code, **except** for persons in regard of whom their accredited employer receives a subsidy under Government Decree 327/2012 (XI. 16.) on the accreditation of employers employing employees with disability and the budgetary subsidies available for the employment of employees with disabilities;

f) **basic wage:** the basic wage effective on the date of submission of the request; as part of it, consideration must also be given to the service charges defined in Ministry of the Economy and Transport Decree no. 71/2005. (IX. 27.) GKM on setting service charge rates and applying and using the service charge, with its amount as at the declaration of the state of danger **(so, in**

calculating the subsidy, the basic wage must be considered and not the absence fee as provided earlier);

g) state of danger: the state of danger declared by Government Decree 40/2020 (III. 11.) on the declaration of state of danger.

The details of the subsidy:

The government offices of the capital and the counties acting as the employment agencies of the state will **grant the employee a subsidy for economic reasons relating to the state of danger on the joint request of the employee and the employer, provided that**

a) the employee

aa) is not receiving other subsidies related to being employed in a part-time arrangement, in relation to the same employment relationship,

ab) has an employment relationship with the employer that commenced no later than the day the state of danger was declared, and

ac) is not serving their notice,

b) the employer

ba) employs the employee, with whom it is submitting the joint request, in reduced working hours – **including remote work and home office** – in order to avoid reducing its staff headcount **(employment can involve working from home as well),**

bd) it has been operating for six months at least, and

be) with respect to the employee submitting a joint request with it, at the time of submitting the request, it does not receive **subsidy under Government Decree 103/2020 (IV. 10.) on supporting the employment during the state of danger of employees engaging in research and development activities in the framework of the Economy Protection Action Plan (hereinafter: Government Decree 103/2020) or job creation or retention subsidies financed from EU funds (so, the Decree only mentions the subsidy for research and development professionals and other subsidies provided from EU funds as grounds for exclusion).**

(The description of the economic circumstances and measures taken so far, the exhaustion of all the possible ways for work schedules, and the expiry or closure of working time banking are no longer included among the conditions).

The subsidy may be granted for the period subsequent to the date of filing the request. The subsidy may be set on a monthly basis.

The subsidy period is three months.

The rate of the subsidy is **seventy percent of the proportionate part, due for the lost working hours, of the basic wage** after reduction of any personal income tax advances and contributions established in accordance with the general rules **(the absence fee has been replaced by the basic wage, and the 30-40-50% restriction concerning the lost working hours has been removed from the text).**

The maximum amount of the basic wage, net of taxes and contributions, which may be considered for calculating the monthly subsidy amount, must not exceed twice the lowest wages net of taxes and contributions in effect as of the date the request is submitted.

The subsidy **will be disbursed** to the employee **once a month, on an ex post basis.**

The subsidy **will not be disbursed for periods of unpaid leave.**

The subsidy is free of taxes and contributions.

By applying for the subsidy, the employee and the employer undertake to agree

- a) on reduced working hours, and
- b) **provided that the reduced working hours exceed half of the working time specified in the employment contract before the amendment**, on individual development time beyond the reduced working hours at least for the duration of the subsidy period (**i.e. agreement on individual development time is only required where the reduced working hours exceed half of the working time specified in the employment contract before the amendment, otherwise it is not mandatory; see below**).

Where the reduced working hours do not exceed half of the working time specified in the employment contract before the amendment (e.g. if it was 8 hours and was reduced to 4 hours, then they do not exceed), the employee and the employer may agree on individual development time (i.e. where the reduced working hours do not exceed half of the working time specified in the employment contract before the amendment, individual development time is not mandatory but is subject to agreement).

Employees must also commit to the following as a precondition for eligibility for the subsidy:

- a) working in reduced working hours resulting in reduced earnings, and
- b) that the creation of another employment additional to their employment referred to in the application will not prevent them from returning, after the subsidy period, to the working time arrangements preceding the reduced working hours arrangement
- c) that they will be at their employer's disposal during the individual development time.

Employers must also commit to the following as a precondition for eligibility for the subsidy:

- a) the headcount retention obligation for the duration of the subsidy period plus further one month,
- b) that it will not order **overtime work** during the subsidy period **regarding the subsidised employee**, and
- c) that, in line with its cooperation and notification obligation, it will report to the government office within two working days any changes impacting the subsidy conditions or the duration of the period of reduced working hours,
- d) that the sum total of the subsidy plus wages **will at least equal the employee's basic wage for the duration of the subsidy period, provided that the reduced working hours exceed half of the working time specified in the employment contract before the amendment (i.e. unlike earlier, the basic wage may even decrease if the reduced working hours do not exceed half of the original hours)**,
- e) that **it will pay wage for the individual development time, provided that the reduced working hours exceed half of the working time specified in the employment contract before the amendment.**

(The joint headcount retention obligation applying to multiple sites has been removed from the text).

The subsidy may be granted provided that

- a) the **employee** has no outstanding payment obligation related to the subsidy, where repayment is demanded in a final resolution by an employment agency of the state,
- b) the **employer**

ba) complies with the conditions on sound relations under labour law, as defined in the government decree on the implementation of the Public Finance Act, and proves its compliance with these conditions in the manner defined in specific legislation, **and**

bb) is not under voluntary liquidation or liquidation proceedings ordered by a final ruling and is not subject to an ongoing bankruptcy procedure ordered by a final ruling or any other procedure provided for in legislation with the purpose of winding it up (**an 'and' has been added to the text, so now points ba)-bb)-bc) form cumulative conditions**), and

bc) as of 31 December 2019, it did not classify as a "firm in difficulty" as defined in Government Decree no. 37/2011. (III. 22.) on the procedures relating to government subsidies as defined in EU competition law and the regional aid map,

c) the **employer evidences** that the economic reasons for employing its staff in reduced working hours is directly and closely correlated to the state of danger and **credibly proves that retaining the employees** is in the interest of the national economy in connection with the employer's continued economic activities.

No subsidy may be granted for employment in derogation from the employment contract.

(The prohibition concerning temporary agency work has been removed from the text).

The subsidy may be granted on the joint request of the employer and the employee.

Employers should submit the subsidy application during the state of danger or within one month after the end of the state of danger electronically, using the dedicated form made available for this purpose on the website of the National Employment Service.

If an employer wishes to submit its joint applications regarding multiple employees **at a single site**, it should submit all of these at the same time. Save for the provisions of paragraphs (9) and (10), applications relating to a single site may only be submitted once. The subsidy may be requested for any one employee only in relation to one site. **Subsidies granted for the same site upon applications submitted at the same time may only be valid for the same period (i.e. for the same site, subsidies granted upon applications submitted at the same time may only be provided for the same subsidy period).**

(The text 'to be attached to the request for subsidy is an agreement on the reduced working hours and the individual development time additional to the reduced working hours' has been removed from the text).

The subsidy application should be submitted to the government office with competence at the employee's employment locality.

If an employee is employed at **multiple employment localities**, the employer can choose to **which competent local government office it wishes to submit** the subsidy application.

The government office

- will examine the application to check compliance with the conditions in the Decree within eight working days;
- adopt a decision on whether to grant the subsidy or reject the request;
- disburse the subsidy to the employee if the application meets the requirements in the Decree.

Legal remedies are not available against the Government Office's decision, nor can it be appealed at the courts.

If an application is refused, the employer and the same employee may resubmit the application only once more.

Once one month has expired after the end of the subsidy period and the headcount retention obligation period, applications may be submitted **only** in relation to employees who had not been subsidised before.

The employment contract is amended for the subsidy period in accordance with the content of the application in terms of reduced working hours and individual development time by virtue of the Decree on the date when the decision is made, **except where the parties have already amended the employment contract before submitting the application (this wording of the Decree allows to conclude that applications may also be filed concerning employment that was already performed in reduced working hours before filing the application; however, according to the previous official government notice, the condition that the reduction of working hours may not be earlier than the declaration of the state of danger, still applies).**

The subsidy will be discontinued

a) if so requested in a joint request by the employee and the employer,

b) if the employee's

ba) employment relationship terminates,

bb) the employee fails to comply with any of their obligations associated with the subsidy,

c) if the employer

ca) with respect to the employee benefiting from the subsidy, it receives subsidy under Government Decree 103/2020 or job creation or retention subsidies financed from EU funds (**in line with the above, this provision of the Decree, too, only emphasises the subsidy for research and development professionals and other subsidies provided from EU funds).**

cb) fails to comply with any of its obligations associated with the subsidy,

d) if the reduced working hours are changed during the subsidy period,

e) if the subsidy should not have been granted due to a failure to comply with the conditions stated in legislation.

By submitting the application, the employer makes a commitment to pay into the account of the National Employment Fund sums proportionate to its failure to comply with its headcount retention obligation. Such payments may be ordered by the government office in a decision.

Compliance with the headcount retention obligation will be checked after the end of the headcount retention obligation period.

The employee must repay the subsidy if it should not have been granted to them given the non-compliance with the employee conditions stipulated in legislation.

The employer must make a payment for a sum equal to the subsidy amount disbursed if the subsidy should not have been granted to its employee given its non-compliance with the conditions for employers. **Employers will be relieved** of the payment obligation imposed on them if they can evidence that the employment relationship ended due to the employer being wound up without a legal successor, **termination by the employer with immediate effect**, or due to the **employee giving notice (the wording 'termination by the employer with immediate effect' has been added to the text).**

If a payment obligation is imposed on the grounds of failure to comply with the employment obligation, the head of the employment agency of the state may, in the cases meriting special treatment, adopt a decision to **waive** the payment obligation, unless the collection process is already underway at the national tax and customs authority.

The above **payment obligation of employers** is governed by the rules on demanding repayments in Act IV of 1991 on Fostering Employment, with the exception of Section 21 (4) and (4a) of that Act.

If the above **payment obligation of employers** is not complied with, Subheading 57 of Act CLIII of 2017 on Collection Proceedings by the Tax Authority must be followed.

The provisions of the Decree established in Government Decree 141/2020 (IV. 21.) on the amendment of Government Decree 103/2020 (IV. 10.) on supporting the employment during the state of danger of employees engaging in research and development activities in the framework of the Economy Protection Action Plan and Government Decree 105/2020. (IV. 10.) on supporting employment in reduced working hours during the state of danger in the framework of the Economy Protection Action Plan (hereinafter: Amending Decree) **shall also be applied in proceedings already in progress on the day of promulgation or before the date of entry into force of the Amending Decree, on the proviso that the administrative deadline as per Section 6 (6)(a) shall restart on the date of entry into force of the Amending Decree (i.e. the rules in the amending decree also apply to the proceedings underway based on already submitted applications; pending applications shall be decided in consideration of that).**

Compliance with the preconditions of submitting an application and the delivery of commitments may be examined with the help of the following list of questions (**in accordance with the amendments**):

- I. Economic check:
 1. In the 3+1 months following the filing of the application, will it (foreseeably) realise revenues that are sufficiently high or, in the absence of the foregoing, does it have reserves that are sufficiently high to enable it to retain the headcount to be subsidised that it has as of the date it applies for the wage subsidy?
 2. **Does it commit to, and does it have the ability for, repaying the subsidy** if it fails to comply with the headcount retention obligation or if an ex post inspection establishes that the conditions applicable to employers were lacking?
 3. In the 3 months following the filing of the application, will it (foreseeably) realise revenues that are sufficiently high or, in the absence of the foregoing, does it have reserves that are sufficiently high to continue paying the wages of the subsidised employees?
 4. The Company can *credibly* prove that its continued operation and the retention of the employees is in the interest of the national economy.
 5. The Company has been **in operation for six months** at least,
 6. as of 31 December 2019, it did not classify as a **“firm in difficulty”** as defined in Government Decree no. 37/2011. (III. 22.) on the procedures relating to government subsidies as defined in EU competition law and the regional aid map
- II. Employer check:
 1. The Company will not order extraordinary work (overtime) for subsidised employees during the subsidy period
 2. The Company was not condemned in a final ruling for a failure to register employees (employing them off the books) in the last 2 years.
 3. There is no final ruling establishing the Company’s obligation to repay subsidies awarded in a job creation and retention grant scheme financed from EU funds, and the affected employee does not benefit from subsidies for research and development activities.
 4. There is no ongoing liquidation proceeding against the Company, it is not under voluntary liquidation and no bankruptcy proceeding has been ordered against it by a final ruling.
- III. Employee check:
 1. No job creation or retention subsidy financed from EU funds is already received in relation to the employee(s) for whom the subsidy is requested.

2. The employee is not employed in a position different from their basic position (44 working days as per Section 53 of the Labour Code)
3. The employee has an **employment relationship** with the employer that **commenced no later than the day the state of danger was declared (11 March)**.
4. The employee agrees to **return to their earlier working hours** after the end of the subsidy period.
5. In relation to the employee for whom the subsidy is requested, there is no subsidy repayment demand by an employment agency of the state as of the date of the application.
6. The employee has already been working in reduced daily working hours since the declaration of the emergency up to at least the date the application is submitted. His or her working hours are reduced by at least 15% but no more than 75%.
7. The employee for whom the subsidy is requested is not serving their notice period and is not on unpaid leave.
8. The employee agrees to apply for the wage subsidy in a joint application with their employer, pursuant to an agreement signed specifically for this reason (this probably implies shared liability under criminal law).

Our colleagues are at your disposal to double-check your assessments.

2. Subsidies to employees in research and development

(Section 9 of Government Decree no. (103/2020. (IV. 10.); the Decree enters into force on 15 April 2020.)

The government offices of the capital and the counties acting as the employment agencies of the state will provide a subsidy **for economic reasons relating to the state of danger on the request of employers employing research and development staff** (except for budgetary bodies) as defined in Section 3 (15) of Act LXXVI of 2014 on Research, Development and Innovation,

a) if the employee

aa) is not receiving other employment stimulation subsidies in relation to the same employment relationship,

ab) has an employment relationship as research/development staff with the employer that commenced no later than the day the state of danger was declared, and

ac) is not serving their notice,

b) if the employer

bb) describes in its request for subsidy its economic circumstances that serve as the grounds for its request, their direct and close correlation with the state of danger, and its past and future measures taken to overcome the economic difficulties,

bb) at the time of submitting the application, its employee named in the application is not receiving reduced working hours subsidy for the same employment relationship,

bc) at the time of submitting the application, it is not receiving job creation or job retention subsidy in relation to the employee named in the application, and

bd) it has been in operation for at least 6 months at the time of submitting the application,

c) if the employer submits the **application** in accordance with the rules published on the website of the National Employment Service.

The subsidy may be set on a monthly basis. The duration of the subsidy period is **maximum three months** from the filing of the application for subsidy.

The monthly subsidy amount per employee **must not exceed** HUF 318,920, also taking into account the amounts of other subsidies referred to in the Decree (other pandemic-related subsidies as per EU regulations referred to in Section 6 (4)-(5) of the Decree).

The monthly amount of the subsidy

- a) will be HUF 318,920 if the employee's **gross wages as of the date of the declaration of the state of danger was HUF 670,000** or more, or
b) if the employee's gross wages as of the date of the declaration of the state of danger was below HUF 670,000, the subsidy amount shall be **calculated from HUF 318,920 adjusted with the ratio between the employee's gross wages and the figure of HUF 670,000 (i.e. the HUF 318,920 must be scaled proportionately).**

The subsidy **will be disbursed** to the employer **on a monthly, ex post basis.**

By applying for the subsidy, the employer undertakes to

- a) **not in force (the headcount retention obligation only applies to the employees concerned)**
b) continue to employ the employee for a duration at least equal to the subsidy period,
c) not reduce, during the period of the subsidy and further employment, the employee's wages compared to the date of the declaration of the state of danger,
d) in line with its cooperation and notification obligation, report to the government office any changes in the conditions of the subsidy.

If the employer operates at multiple sites, its obligation to retain its average statistical headcount will apply jointly to all of its locations.

The subsidy may be granted if the employer

- a) complies with the conditions on sound relations under labour law, as defined in the government decree on the implementation of the Public Finance Act, and proves its compliance with these conditions,
b) is not under voluntary liquidation or liquidation proceedings ordered by a final ruling and is not subject to an ongoing bankruptcy procedure ordered by a final ruling or any other procedure with the purpose of its winding up, and
c) as of 31 December 2019, it did not classify as a "firm in difficulty" as defined in Government Decree no. 37/2011. (III. 22.) on the procedures relating to government subsidies as defined in EU competition law and the regional aid map.

No subsidy may be granted for employment in arrangements other than employment contracts, in the event of remuneration paid in the absence of work, or for hired personnel.

Employers should submit the subsidy application to the government office with competence at the employer's registered seat or site, doing so **during the state of danger or within one month after the end of the state of danger.**

Decisions on granting subsidies may be adopted by 31 December 2020 at the latest.

Applications concerning the same site and the same employees may be submitted only once (except for re-submittal). Applications concerning employees of one particular site must be submitted at the same time.

Within eight working days, the government office will examine compliance of the application with the legally stipulated conditions and decide whether to grant the subsidy.

If the application meets the legally stipulated conditions, the government office will grant a subsidy to the **employer** based on the application and **conclude an official contract with it.**

If it refuses the request, the employer may submit another application concerning the same site and the same employees only one more time.

The subsidy is provided as a non-repayable grant.

The monthly subsidy amount, also **including** any other subsidies received in connection with the pandemic, **must not exceed eighty percent of the relevant employees' wages, calculated inclusive of employer contributions.**

In the case of identical or partly identical identifiable eligible costs, the **subsidy may be combined with** other local, regional, public finance or EU-funded employment subsidy measures and state aid, on the condition that such combined subsidies must not lead to the overcompensation of the wage expenditures of the employer in respect of the relevant employees' wages.

All documents relating to the subsidy must be kept for a period of ten years following the subsidy decision.

The subsidy must be ended

a) if so requested by the employer,

b) if the employee's

ba) employment relationship terminates,

bb) the employee receives reduced working hours employment subsidy in respect of the same employment relationship,

bc) the employee does not classify as research/development staff,

c) if, under this Decree, the employer

ca) fails to comply with any of its obligations associated with the subsidy,

cb) reduces the wages of its employee receiving the subsidy from its level as of the date of the declaration of the state of danger,

cc) receives job creation or job retention subsidy with respect of its subsidised employee,

d) if the subsidy should not have been granted, given the absence of the conditions defined in this Decree.

Compliance with the further employment obligation will be checked after the end of the duration of the subsidy period.

The employer must repay the subsidy

a) in full if the subsidy should not have been granted, given the absence of the conditions defined in this Decree, or

b) in part, proportionately to the breach of obligation, or in full if it failed to comply with its obligation for further employment for the predefined duration.

Employers will be relieved of their repayment obligation if they can evidence that the employment relationship ended with immediate effect during the trial period, upon the dismissal with immediate effect by the employer, due to the employer being wound up without a legal successor or due to the employee giving notice.

The provisions of the Decree established in Government Decree 141/2020. (IV. 21.) on the amendment of Government Decree 103/2020 (IV. 10.) on supporting the employment during the state of danger of employees engaging in research and development activities in the framework of the Economy Protection Action Plan and Government Decree 105/2020. (IV. 10.) on supporting employment in reduced working hours during the state of danger in the framework of the Economy Protection Action Plan shall also apply to subsidies already in progress (i.e. the rules in the amending decree also apply to the proceedings underway based on already submitted applications; pending applications shall be decided in consideration of that).



Könyvszakértő és Adótanácsadó Kft.
Auditing & Taxadvising Ltd.
Wirtschaftsprüfungsgesellschaft m.b.H

We will provide information to our esteemed customers on other new financial subsidies and tax reliefs **available for businesses** in a separate letter that we will be sending soon.

Should you have any questions regarding the above, **please** feel free to contact your account manager.

Yours sincerely,

Staff of the Bergmann Office