

IMPACT OF THE STATE OF EMERGENCY DECLARED ON 12 MARCH 2020 ON THE DUTIES OF A MEMBER OF A COMPANY'S STATUTORY BODY



Status as at 27 April 2020, 15:00 (will be continuously updated)

In connection with the nationwide state of emergency declared on 12 March 2020 due to health threats in connection with the outbreak of coronavirus SARS CoV-2 causing the COVID-19 disease, we have prepared a brief summary of the impact of the crisis measures and other government resolutions adopted following the declaration of the state of emergency on members of statutory bodies responsible for company management. This memorandum has been updated as at 27 April 2020.

SELECTED CRISIS AND OTHER MEASURES IN AREAS WHICH MAY BE RELATED TO COMPANY MANAGEMENT

1. Order restricting the number of people in public places to a maximum of ten

Adopted: on 23 April 2020 as Government Resolution No. 452

Applicable: for the duration of the state of emergency

Impact:

All persons in the territory of the Czech Republic are ordered to limit gatherings in public places to a maximum of ten persons and to keep a distance of at least 2 m from others. The Regulation on presence in public places does not apply to the exercise of a profession and the pursuit of a business or other similar activity. However, the regulation to maintain a distance of at least 2 m from other persons also applies to these activities. It is therefore necessary to comply with this Regulation or to create the conditions for compliance, even in the workplace or in any other

place where the company's activities may take place.

It is advisable to physically modify the areas where workers or other persons are present so that a distance of 2 m between persons can be maintained as easily as possible.

It is also advisable, in particular, to limit meetings, consultations and working meetings to those that are absolutely necessary and especially to make use of means of distance communication. Where the physical presence of persons is unavoidable, it is particularly advisable to divide the presence into several periods of the day (morning and afternoon shifts) or to divide the persons concerned into groups and to alternate the presence of members of those groups in the same place so that they do not meet each other. This measure is also recommended to ensure business continuity in the event that the contagion spreads among members of one group, since the other group could take over the work duties.

2. Recommendations of the Government of the Czech Republic for employers


Adopted: on 23 March 2020 as Government Resolution No. 279

Applicable: indefinitely

Impact:

The Czech Government recommends all employers:

1. to use teleworking as far as possible provided that employees can so from their place of residence;
2. to promote the taking of holiday and paid leave for employees and similar instruments provided in the collective agreement; and
3. to restrict the performance of work that is not significant to maintaining the employer's activity.



The Government recommendations are not binding on companies which are employers.

However, they may be appropriate or necessary to comply with other measures that are binding (e.g. restrictions on contacts with others).

3. Prohibition of retail sale and sale of services

Adopted: on 23 April 2020 as Government Resolution No. 453

Applicable: for the duration of the state of emergency

Impact:

The operation of stores and retail outlets and provision of retail services in the Czech Republic is prohibited, with the exception of the stores (establishments) listed in Annex No. 1 to this memorandum (updated as of the date this memorandum was updated).

The prohibition applies only to retail establishments selling goods and services, and not to premises providing professional services or to the wholesale of goods, whose operation is not affected by the prohibition.

Establishments not subject to the above prohibition are obliged to comply with certain additional measures. These measures are listed in Annex No. 1 to this Memorandum.

4. Prohibition of public presence in food service establishments

Adopted: on 23 April 2020 as Government Resolution No. 453

Applicable: for the duration of the state of emergency

Impact:

The presence of persons in food service establishments is prohibited in the Czech Republic. However, this prohibition does not affect establishments which are not publicly accessible (e.g. employee canteens) or sale outside the food service establishment (e.g. fast-food outlets with a dispensing window or takeaway meals sold without the customer entering the establishment). Notwithstanding the preceding sentence, the operation of food

services located within shopping malls with a sales area exceeding 5,000 m² is prohibited.

5. Prohibition of some other business activities

Adopted: on 23 April 2020 as Government Resolution No. 453

Applicable: for the duration of the state of emergency

Impact:

The operation of some other business activities in the Czech Republic is prohibited, including the activities listed in Annex No. 2 to this memorandum (updated as of the date this memorandum was updated).

6. Prohibition of movement and presence without respiratory protective equipment in all places outside the home

Adopted: on 9 April 2020 as Decision of the Ministry of Health

No. MZDR 15757/2020-2/MIN/KAN

Applicable: from 16 March 0:00 to 24 March 6:00

Impact:

All persons are prohibited from being and moving in public without a respirator, face mask, mouthpiece, scarf, shawl or other means of covering the nose and mouth. The use of such protective equipment is also required at work. However, a respiratory protective device within the meaning of this decision of the Ministry of Health is not personal protective equipment. The employer is therefore not obliged to provide the employee with face masks or other respiratory protective equipment. However, the employer is obliged to allow employees to use such protective equipment in the workplace.

7. Obligation of persons entering the Czech Republic to undergo quarantine for 14 days and the obligation of persons who develop symptoms of an infectious disease to notify a physician

Adopted: on 23 April 2020 as Government Resolution No. 443

Applicable: for the duration of the state of emergency

Impact:

Employees or associates, or any other person returning to the Czech Republic from abroad, are required upon returning to contact a physician, who is obliged to order them to undergo a quarantine period of 14 days. The presence of these persons in the company's offices, in the workplace, in the client's offices, or in any place outside the place of quarantine is forbidden.

Persons who submit a certificate issued by a doctor or a public health authority confirming that the person concerned has undergone an RT-PCR test for the presence of SARSCoV-2 with a negative result are exempt from the measure. The person is obliged to arrange for the test at their own expense.

Employees in quarantine are entitled to wage compensation of 60% of their average earnings during the first 14 days of quarantine, but only if at the date of the quarantine the employee meets the conditions for entitlement to sickness benefits (i.e. this does not apply to employees working under an agreement to complete a job or an agreement to perform work below the income threshold for participation in the sickness insurance system).

8. Replacement of the medical assessment by an affidavit of the employee and suspension of the necessity to perform periodic medical examinations

Adopted: on 23 March 2020 as Government Resolution No. 280

Applicable: for the duration of the state of emergency

Impact:

The initial medical examination of employees starting a new job during the state of emergency may be temporarily replaced by the employee's affidavit. If the employee is subject to a periodic medical examination, this may be temporarily postponed.

9. Ban on the presence of pupils in schools

Adopted: on 23 April 2020 as Government Resolution No. 455

Applicable: for the duration of the state of emergency

Impact:

The employer is obliged to release from work an employee caring for a child up to the age of 10 due to the ban on the presence of pupils in the workplace. Such an employee is entitled to a care benefit of 60% of the daily assessment base.

10. Ban on the entry of foreigners without Czech residency permit into the Czech Republic

Adopted: on 23 April 2020 as Government Resolution No. 443

Applicable: for the duration of the state of emergency

Impact:


Employees or associates or any other persons who are citizens of other countries without residence in the Czech Republic are not entitled to enter the Czech Republic after the measures come into force. The presence of these persons in the company's offices or anywhere in the Czech Republic cannot be secured.

The measure does not affect the movement of persons within the territory of the Czech Republic (e.g. transport to or from the address of suppliers, customers or business partners or the offices of public authorities in another city in the Czech Republic), including foreigners who are in the Czech Republic legally at the time of the state of emergency (these foreigners are not obliged to leave the Czech Republic).

An exemption from the measure is permissible for citizens of the European Union who demonstrably come to the Czech Republic for the purpose of economic activity, if the person submits a certificate issued by a doctor or public health authority confirming that they have undergone an RT-PCR test for SARSCoV-2 with a negative result. The fact that a person is coming to the Czech Republic for the purpose of performing an economic activity must be substantiated by an appropriate document.

PENALTIES FOR BREACH OF OBLIGATIONS ARISING FROM CRISIS AND OTHER EMERGENCY MEASURES

The violation by a company of a crisis or other measure in a state of emergency may be deemed an offence under Act No. 258/2000 Coll., on



Public Health Protection and on Amendments to Some Related Acts, as amended, or Act No. 240/2000 Coll., on Crisis Management and on Amendments to Some Related Acts (Crisis Act), as amended. Penalties of up to CZK 3,000,000 may be imposed for these offences.

On 13 March 2020, an amendment to Government Regulation No. 453/2009 Coll., which for the purposes of the Criminal Code lays down what is considered a contagious human disease, was approved, adding COVID-19 caused by SARS CoV-2 to the list of infectious diseases. As a result of the inclusion of COVID-19 in the list of infectious diseases, causing or increasing the risk of introduction or spread of the disease becomes a criminal offence. It will also be punishable even if this occurs due to negligence. There is negligence if the person concerned:

- a) knew that they could violate or jeopardise an interest protected by law (this interest being the protection of the health of people), but without adequate reasons assumed that they are not committing such a violation or causing a threat (so-called conscious negligence); or
- b) did not know that they could commit such a violation or cause such a threat, although they should and could have known about it in view of their personal circumstances (so-called unconscious negligence).

CONCLUSION

It can be expected that the situation in connection with the declared state of emergency will continue to evolve, whereas it cannot be excluded that if the spread of COVID-19 is mitigated individual crisis or other measures will be revoked or more limited. It is therefore necessary to regularly monitor the situation. In case of need and further development of the situation we are ready to prepare an updated or more detailed overview of the impacts of individual measures.



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Annex No. 1:

list of establishments exempted from the ban on retail sales and provision of services as at 27 April 2020

The ban on retail sale and provision of services **does not apply** to the following types of shops (establishments):


- ▶ grocery stores,
- ▶ propellants,
- ▶ fuels,
- ▶ sanitary goods, cosmetics and other drugstore goods,
- ▶ pharmacies and dispensaries of medical devices,
- ▶ small domestic animals,
- ▶ animal feed and other supplies,
- ▶ glasses, contact lenses and related goods,
- ▶ newspapers and magazines,
- ▶ tobacco products,
- ▶ laundry and dry-cleaning services,
- ▶ repair of road vehicles where there are not more than 30 persons at the same time in the establishment,
- ▶ towing and repairing road vehicles,
- ▶ sale of spare parts for means of transport and production technologies,
- ▶ establishments allowing the collection of goods and consignments from a third party,
- ▶ sale of gardening supplies including seed and seedlings,
- ▶ ticket sales,
- ▶ spa facilities provided that only spa services covered at least in part by public health insurance are provided,
- ▶ funeral homes,
- ▶ florists,
- ▶ construction and demolition, design activities in construction, geological work, surveying, testing, measurement and analysis in construction
- ▶ dispensing and selling medical devices,
- ▶ sale of textile materials and haberdashery,
- ▶ repair of computer and telecommunications equipment, audio and video receivers,

consumer electronics, appliances and other household products,

- ▶ real estate brokerage and activities of accounting advisors, bookkeeping, keeping tax records,
- ▶ locksmithery and servicing of other household products,
- ▶ repair, maintenance and installation of household machinery and equipment,
- ▶ operation of cemeteries, embalming and preservation, incineration of human remains, including the storage of human remains in urns,
- ▶ carwashes,
- ▶ household equipment stores, if respiratory protective equipment such as a respirator, face mask, scarf, shawl or other means to prevent the spread of droplets, gloves or disinfectant can be purchased at the establishment,
- ▶ hobby markets, building and construction products and hardware stores, -
- ▶ sale and service of bicycles,
- ▶ collection and purchase of raw materials and compost,
- ▶ sale of new and used road vehicles,
- ▶ craft trades, except for establishments in which the service provider comes into physical contact with the customer (e.g. barbershop, hairdresser, pedicure, manicure),
- ▶ tourist information centres,
- ▶ activities which are not trades.

Compliance with the following rules must be ensured at the above establishments:

- ▶ actively prevent customers from being less than 2 m apart;
- ▶ ensure the management of queues, both inside and outside the establishment, in particular by indicating the waiting area and placing signs for minimum distances between customers (minimum distance of 2 m);
- ▶ place disinfectants near frequently touched objects (in particular handles, railings, shopping trolleys) so that they are available to employees and customers of the establishments and can be used for regular disinfection;
- ▶ ensure that workers wear gloves when in contact with goods and when receiving payments from customers;

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- ▶ ensure that customers are informed of the above rules, in particular by means of information posters at the entrance and in the establishment or, where appropriate, by communicating the rules via loudspeakers in the establishment.

Annex No. 2:

list of other prohibited business activities as at 17 April 2020

The ban on business activities applies among others to:

- ▶ operation of gambling rooms,
- ▶ casinos,
- ▶ taxi operation, except for taxis delivering foodstuffs or persons with a taxi driver licence,
- ▶ presence of the public in certain premises of service providers - indoor and outdoor sports venues.