



Deloitte Legal Newsflash

Employment, Pensions & Benefits

Temporary unemployment after 31 August 2020: Summer preparation for employers

Since the start of the COVID-19 crisis in Belgium, authorities accepted a simplified procedure for temporary unemployment (**Corona TU**), based on a flexible application of the force majeure notion for all companies and industries. If companies want to apply the Corona TU, they can decide and implement the system on the spot.

This Corona TU has been extended several times and is currently in force until 31 August 2020.

During the 14 July 2020 COVID-19 Commission in the Chamber of Representatives, the Minister of Work clarified what will happen next.

The social partners demanded a broad extension

Following the mid-June decision to extend the Corona TU until 31 August 2020, social partners in the 'Group of Ten' unanimously agreed that the regime should be extended until 31 December 2020 for all companies that are "heavily impacted".

The Government aligns its position

Despite the social partners' request, the government originally intended to limit any further extension to a specific number of heavily impacted *industries*.

Based on continued discussions with the social partners however, the Minister of Work has now confirmed that the possibility of Corona TU after 31 August 2020 will be evaluated at *company* level.

a) Corona TU for heavily impacted companies

While pending Royal Decree confirmation, the Minister already stated that Corona TU will be limited to companies that are heavily impacted, i.e. companies that during the **second quarter of 2020**, applied a **minimum 20% of Corona TU or regular economic unemployment (REU)** schemes. This threshold should be verified based on the number of days reported to the National Social Security Office.

The extension would come with additional **formalities**. Companies will have to provide a specific form (to be developed) to the National Employment Office (**NEO**), which will then verify upfront, through audits, whether the company actually satisfied the 20% rule.

On top of this evaluation at company level, the Minister of Work can still identify general industries entitled to Corona TU, if these industries would become subject to a mandatory lockdown or other restrictive measures.

b) Other companies can rely on a transitional regime

Companies that no longer meet the conditions to apply the Corona TU can rely on **(i)** the REU schemes; or **(ii)** a transitional measure provided by Royal Decree n°46 of 26 June 2020 (**RD 46**).

The main principles of RD 46 can be summarised as follows:

- Increased **maximum duration**:

Type of worker	Full-time TU	Part-time TU
Blue collar	Max. 8 weeks (4 weeks)	Max. 18 weeks (13 weeks)
White-collar	Max. 24 weeks (16 weeks)	Max. 34 weeks (26 weeks)

- Access will not be restricted to companies in difficulty for white-collar workers. The employer must simply demonstrate that, in the quarter preceding the introduction of REU, it experienced a **decrease of at least 10% in turnover or production** compared to the same quarter of 2019.
- The company must offer **two training days per month to white-collar workers** (whether a full-time or part-time REU regime). According to the Minister, this would be organised by regional employment cells.
- Companies still need a CBA or business plan as is required for a REU. The business plan however, does not need to be submitted to the Federal Public Service of Employment and

the Business Plans Committee for approval, thereby saving employers two weeks.

This transitional regime will enter into force on 1 September 2020 and will apply until 31 December 2020.

Employers should assess and prepare

To identify the procedure they would need to follow and the corresponding time restraints, companies need to assess both (i) the level of TU/REU already applied in the second quarter of 2020, as well as (ii) their expected need for TU/REU after 31 August 2020.

If necessary, the company should already prepare a file for (the transitional) REU to avoid an intermediate period, during which they cannot rely on TU/REU and the corresponding saving.

Depending on a company's situation, the REU procedure for white-collar workers will take a minimum of two to four weeks; action during the summer period is therefore highly encouraged.

Contacts

If you have any questions concerning the items in this newsflash, please get in touch with your usual Deloitte Legal - *Lawyers* contact at our office in Belgium or:

- Stijn Demeestere, Partner
sdemeestere@deloitte.com, + 32 2 800 71 42
- Thomas De Donder, Senior Associate
tdedonder@deloitte.com, +32 2 800 70 54

For general inquiries, please contact:
bedeloittelegal@deloitte.com, + 32 2 800 70 00

Be sure to visit us at our website: <http://www.deloittelegal.be>



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