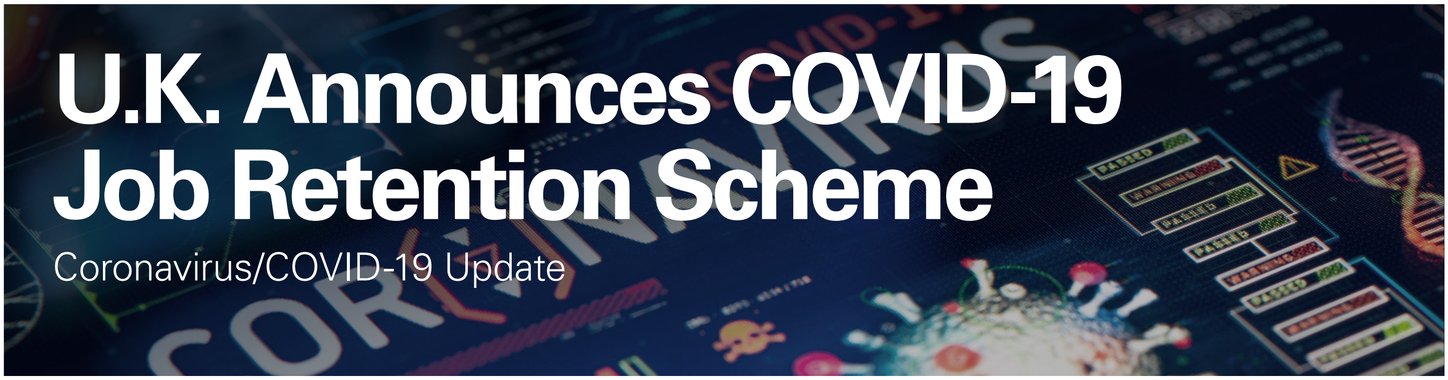
March 23, 2020

Skadden



U.K. Announces COVID-19 Job Retention Scheme

Coronavirus/COVID-19 Update

If you have any questions regarding the matters discussed in this memorandum, please contact the following attorneys or call your regular Skadden contact.

Helena Derbyshire
Of Counsel / London
44.20.7519.7086
helena.derbyshire@skadden.com

Ulrich Ziegler
Counsel / Frankfurt
49.69.7422.0150
ulrich.ziegler@skadden.com

Nicolas Etcheparre
Associate / Paris
33.1.55.27.11.46
nicolas.etcheparre@skadden.com

One Manhattan West
New York, NY 10001
212.735.3000

40 Bank Street
Canary Wharf
London, E14 5DS
44.20.7519.7000

The COVID-19 crisis has led to much uncertainty regarding continuing pay for employees who are unable to work from home, as well as overall job security, in the face of employers' financial uncertainty.

Adding to the negative economic impact, on March 20, 2020, the U.K. government announced that bars and restaurants were to close their doors, effective at close of business that night, striking a further blow to the hospitality industry. As more businesses have been forced to close or severely limit their operations, U.K. Chancellor of the Exchequer Rishi Sunak announced measures to assist employers financially, with the aim of avoiding job losses as a result the virus outbreak.

Prior to the virus outbreak, employees in the U.K. were entitled to full pay if their employer was unable to provide work unless their contract included a specific clause allowing a temporary "lay-off" of up to four weeks or short time work. However, such clauses are extremely rare. This means that many employers are forced to consider redundancy dismissals if they are unable to pay their staff.

The U.K. government's announcement stated, as part of a "great national effort to protect jobs," that under the Coronavirus Job Retention Scheme, it will pay 80% of the salary of employees who are unable to work if work is not available. This payment is intended to enable employers to temporarily lay off employees. The furlough payment is capped at £2,500 a month, which is more than the median income in the U.K., backdated to March 1, 2020, will be available for at least three months and it is understood that the employer will be refunded through a grant. In conjunction with emergency loans and grants available to small businesses, this unprecedented measure is intended to assist employers who are unable to pay their staff and reduces the need for employees to lose their jobs.

Similar measures have been implemented in France and Germany.

France

Following the French government's lockdown order on March 15, 2020 that required a variety of businesses to close their doors (including bars, cinemas and nightclubs) employees may now qualify for "technical leave," which applies in extraordinary circumstances and enables companies to ask employees not to work. For up to 12 months (if an initial six-month period is renewed) employees on technical leave can be paid government subsidies of approximately 70% of their salary. Due to the COVID-19 outbreak, 100% of all costs will be covered by the French government up to a cap of approximately €6,925 a month. The employer will have to pay any balance. The period for which this increased ceiling will apply is not yet known, but the French government's draft emergency budget assumes that it will last 30 days.

The government also announced various measures to help companies in France, including:

- payment deadlines of social and/or fiscal installments (URSSAF, taxes) have been pushed back;
- support from the government and the Banque de France (credit mediation) to negotiate a rescheduling of bank loans with the relevant bank;
- the mobilization of Bpifrance to guarantee bank lines of credit that companies may need because of the epidemic;
- support for handling conflicts with customers or suppliers by the business mediator; and
- recognition by the state that COVID-19 is a case of a *force majeure* event for its public contracts. Consequently, penalties for delays will not be applied to public procurement contracts.

Germany

Most measures in connection with the COVID-19 crisis (*e.g.*, closure of public institutions, restaurants, schools, etc.) are decided at a local state level, not by the German federal government. As a result, restrictions vary from state to state, with the most strict measures, thus far, put into force in Bavaria.

The German federal government has provided that if an employer's workload is reduced by more than 10% as a result of COVID-19, the employer can reduce the working time of its employees accordingly and apply for a "short time work allowance" for which the federal government will make up the difference of the lost salary, capped at a maximum of approximately €2,800 per month, for a maximum term of 24 months.