

POLISH ANTI-CRISIS SHIELD

The Polish Anti-Crisis Shield was adopted on 31 March – below is a summary of the changes that may affect running a business.



LABOUR LAW

- **exemption from ZUS contributions**

An exemption from the obligation to pay social security (ZUS) contributions in the period from 1 March 2020 to 31 May 2020 applicable to: (i) employers with up to 9 employees and (ii) sole traders (self-employed) whose revenues do not exceed 300% of the projected average gross monthly salary in the national economy in 2020.

- **downtime pay**

In the event of economic downtime or reduced working time, payment to an employee (regardless of the type of employment relationship) of wages/salary reduced by no more than 50% but not lower than equivalent to the minimum wage, which is co-financed by the Guaranteed Employee Benefits Fund up to 50% of the minimum wage, taking into account the working time. The employees whose pay in the month preceding submission of the co-financing application was higher than 300% of the average monthly salary for the previous quarter as published by the President of the Central Statistical Office, effective on the day of submitting the application, are not eligible.

- **reduced working time**

In the event that the employer's turnover drops by at least 15% as a result of COVID-19, working time may be reduced by 20% but no more than to 0.5 full-time equivalent, providing that pay is not lower than the minimum wage taking into account the working time, which is co-financed by the Guaranteed Employee Benefits Fund up to one half of the pay but no more than 40% of the average monthly salary for the previous quarter as published by the President of the Central Statistical Office.

The employees whose pay in the month preceding the month in which the co-financing application is submitted was higher than 300% of the average monthly salary for the previous quarter as published by the President of the Central Statistical Office, effective on the day of submitting the application, are not eligible.

- **working time**

Liberalisation of the rules for establishing the system or distribution of working time and overtime by certain employers.

- **trading ban on Sundays**

Liberalisation of the ban on performing certain tasks associated with retail trading on Sundays to the extent of unloading, receiving, and displaying necessities and on assigning such tasks to a member of staff or an employee.

- **suspension of periodic medical check-ups**

Suspension of the obligation to undergo periodic medical check-ups requested by the employer as the state of epidemic threat or the state of epidemic continue.

- **extended validity of medical check-ups**

The medical certificates issued as part of the preliminary, periodic, and follow-up medical check-ups expiring after 7 March 2020 continue to be valid but no longer than until the expiry of 60 days from the lifting of the state of epidemic threat or the state of epidemic.



TAXES

- **payment gridlock**
Accounts payable that are not paid within 90 days within the meaning of the provisions on the prevention of excessive delays are not included in the income constituting the basis for calculating the tax advance for individual tax periods falling in 2020 (if the revenues generated by the taxpayer in the relevant tax period are lower by at least 50% compared to the same period of the previous tax year).
- **accounting for a loss**
Allowing taxpayers who because of COVID-19 incurred a loss in the tax year 2020 and generated in that tax year revenues at least 50% lower than the revenues generated on the same operations in the tax year 2019 a one-off reduction of the income generated in 2019 by that loss (up to the maximum amount of PLN 5,000,000).
- **tax advances**
Deferment to 1 June 2020 of the deadline for effecting advance payments on account of income tax on wages and salaries paid to employees for March and April 2020.
- **permissible delay in submission of PIT statement**
Submission of a tax statement on the amount of income generated (loss incurred) in 2019 and payment of the personal income tax due by 31 May 2020 (instead of 30 April 2020) will have no adverse penal consequences. The wording of the provision suggests that the extension does not apply to the solidarity levy (4% on income over PLN 1 million), which should be declared and paid by 30 April 2020.
- **deferred deadline for submission of CIT statement**
The deadline for submission of the statement on the amount of income generated (loss incurred) in 2019 and payment of the corporate income tax due has been postponed until 31 Mat 2020.
- **tax rulings**
Extension of the deadline for rendering tax rulings to 6 months.
- **preferential tax deductibility of anti-epidemic donations**
Preferential tax deductibility of COVID-19 anti-epidemic donations: 200% (donations made by 30 April), 150% (donations made in May), or 100% (donations made from 1 June to 30 September).

- **electronic receipt**

Fiscal receipts can be issued in electronic form instead of the traditional paper form upon agreement (with the consent of and in the manner agreed with the buyer).

- **VAT matrix**

The effective date of the VAT matrix postponed until 1 July 2020.

- **extension fee**

No extension fee if the taxpayer's request for deferment of tax or payment of tax in instalments is granted.



LEASES

- **expiry of obligations (large retail facilities)**

As the ban on trading in retail facilities in excess of 2000 sq. m in selling space continues, obligations of the parties to lease, tenancy, and other similar agreements expire (for details, see Legal Alert of 31 March 2020 <https://skslegal.pl/en/publikacje/najem-lokali-w-centrach-handlowych-czasowe-wygaszenie-umow/>).

Combined with the tenant's obligation to submit to the landlord upon expiry of the ban an unconditional offer to extend the term of the agreement on the same terms and conditions by the period of the ban plus six months.

- **no termination and extension of lease agreements in force**

The current lease agreements cannot be terminated and rents under them cannot be increased until 30 June 2020 (subject to the exceptions provided for under statute).

Extension of lease agreements until 30 June 2020 on the basis of the tenant's statement (applies to lease agreements concluded before the effective date of the statute that would expire prior to 30 June 2020).



BANK LOAN/CREDIT FACILITIES

- **amending terms of loan/credit facilities**
The conditions and terms of repayment of credit/loan facilities granted prior to 8 March 2020 can be amended without the need for a full credit rating assessment (applicable to microenterprises and SMEs only).
- **financial assistance by BGK**
Sureties and guarantees for repayment of loan/credit facilities contracted by entrepreneurs are available from Bank Gospodarstwa Krajowego, excluding microenterprises and small entrepreneurs, to support financial liquidity. The surety or guarantee may cover up to 80% of the outstanding loan/credit facility amount covered by the surety or guarantee. Over PLN 100 billion has been pledged as BGK guarantees and sureties for repayment of credit/loan facilities (up to PLN 250 million - we understand that this applies to individual loan/credit facility amounts) for medium-sized and large enterprises.
- **UKNF credit rating communication**
Facilitating extension or increase of financing (up to 1 year) granted prior to 31 December 2020 in the event of a temporary threat of liquidity loss and preferential treatment of borrowers covered by BGK guarantees up to 80% of the loan/credit facility amount, including with regard to new lending - in accordance with the Communication of the Office of the Financial Supervision Authority of 31 March 2020 (https://www.knf.gov.pl/o_nas/komunikaty?articleId=69406&p_id=18) and Communication of the Polish Bank Association (ZBP) no. 2 on assistance measures (<https://zbp.pl/aktualnosci/wydarzenia/Komunikat-ZBP-nr-2-ws-dzialan-pomocowych>).
- **financial assistance by PFR**
The new tasks of the Polish Development Fund (PFR) comprising public aid through financing extended among others to prevent or remedy damage caused by natural disasters, other crises, including the spread of COVID-19 by (a) acquiring or purchasing shares, subscription warrants, bonds, receivables, and joining partnerships; and (b) granting loans, guarantees, and sureties.



BUSINESS OPERATIONS

- **remote meetings of corporate bodies**
Management Boards and Supervisory Boards of companies can operate and shareholders can participate in meetings of shareholders (general meetings) of companies on a remote basis. There is a requirement to adopt regulations setting forth the procedure for remote attendance of meetings of shareholders (general meetings). The real-time transmission of proceedings of general meetings of public companies must be provided.
- **financial statements**
Postponement by 3 months (or by 2, depending on the entity) of the deadline for drawing up financial statements.
- **UBO register**
Postponement of the deadline for submission of information to the Central Ultimate Beneficial Owner Register until 13 July 2020.



OTHER CHANGES

- **time limits**
Suspension over the period of the state of epidemic threat or the state of epidemic of time limits laid down under administrative law (also including prescription by limitation, strict time limits, time limits for submitting changes to registers) and time limits in legal proceedings and court deadlines.
- **hearings**
Open hearings and sessions are not held during the COVID-19 state of epidemic, with the exception of urgent cases laid down under statute.
- **suspension of administrative enforcement**
Administrative enforcement proceedings for monetary claims can be suspended under the regulation of the Council of Ministers determining the geographic scope and the period over which the suspension of enforcement applies.
- **maximum prices and margins**
Introducing the ability to set maximum prices or maximum wholesale and retail margins used in the sale of goods or services that are significant for the protection of human health or safety or the costs of maintaining households by way of a regulation of the Minister of Development in consultation with the Minister of Health and the Minister of Agriculture and Rural Development.

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