

SUMMARY OF CHANGES IN EMPLOYMENT LAW

Without any doubt, the COVID-19 pandemic dominated the year 2020, had an impact on the business world and forced employers to adapt to the new conditions. Last year's legislative work focused mainly on solutions related to counteracting the COVID-19 pandemic that were aimed at supporting employers and preserving jobs.

As we enter the new year, below we present a brief summary of the key changes that employers and employees had to face in the difficult year 2020.

Anti-Crisis Shield – aid for employers

The legislator decided to regulate, among others, solutions aimed at protection against redundancies, supporting undertakings, providing security for employees in the so-called Anti-Crisis Shield. The Anti-Crisis Shield has been repeatedly amended and its solutions adjusted so that the undertakings whose businesses were most affected by the restrictions introduced by the Government could benefit from financial support. With the second wave of the COVID-19 pandemic, state aid became targeted at specific industries affected by the restrictions. The so-called Industry Shield was adopted, and with it the next version of the Financial Shield of the Polish Development Fund (PFR).

The Anti-Crisis Shields provided for the possibility of introducing an economic downtime or a reduction in working hours which entailed the granting of wage subsidies for employees covered by the application. In addition, employers, in agreement with employee representatives, could suspend certain benefits and grant outstanding annual leave. Additionally, undertakings could apply for a total or partial exemption from the obligation to pay social security contributions. The Anti-Crisis Shield introduced a limitation to ten times the minimum wage in respect of the amount of severance pay, compensation or other pecuniary benefits paid by the employer to the employee in connection with termination of the employment contract or the right to terminate non-competition agreements after termination of employment upon 7 days' notice. The conditions for using particular instruments and the admissible period of their use have been indicated in detail in the Act.

Anti-Crisis Shield – remote work

The coronavirus pandemic has forced employers to alter the existing ways of organising work in a manner that limits employee contact, thus preventing the spread of the virus and not putting the workplace to a standstill. Most employers decided to allow their employees to work remotely. Unfortunately, it has been difficult to organise, because remote working is not regulated in the Labour Code and its introduction is associated with a number of risks on the part of the employer.

One of the most important amendments to the Anti-Crisis Shield was the introduction of provisions allowing employers to instruct employees to work remotely. According to the provisions of the Anti-Crisis Shield, employees may be instructed to work remotely if the nature of the work performed allows it and if the employee has the technical skills and adequate premises to perform work outside the workplace. The employer must provide the tools and materials needed to perform remote work, as well as handle the logistics. The legislator indicated that the employee may use tools or materials not provided by the employer on the condition that this enables respect for and protection of confidential information and other legally protected secrets, including business secrets or personal data, as well as information the disclosure of which could cause harm to the employer.

Another groundbreaking change that has made remote working more widespread was allowing employees to work remotely while in quarantine and isolation.

Employee safety

The Covid regulations are not only the Anti-Crisis Shield. The repeatedly amended Regulation concerning the establishment of certain restrictions, orders and prohibitions in connection with the state of epidemic has required employers to provide:

- to persons employed, irrespective of the basis of employment, disposable gloves or hand disinfectants,
- a distance of at least 1.5 m between the work stations, unless this is not possible due to the nature of the work carried out in the workplace in question and the workplace provides personal protective equipment to fight against the epidemic.

In addition, unless the employer decides otherwise, it is mandatory to cover the mouth and nose in the workplace if there is more than 1 person in the room.

Amendments to the Labour Code

In 2020, a significant modification of the Labour Code came into force. In order to improve the effective recovery of maintenance payments, starting from 1 December 2020, changes were introduced to the Code with regard to minor offences and penalties for employers. These changes are intended to discourage employers from illegally employing debtors who owe maintenance and from paying these debtors a salary higher than the amount specified in the contract without making deductions for maintenance. The amendments provide for a fine from PLN 1,500 to PLN 45,000 for employers or persons acting on their behalf if:

- they do not confirm in writing the employment contract concluded with an employee before allowing him or her to work, and this employee is a person against whom recovery of maintenance payments, and recovery of State budget receivables arising from benefits paid when recovery of maintenance is ineffective, is pending and he or she is in arrears with these payments for a period longer than 3 months, or
- they pay such an employee a salary higher than specified in the employment contract without making deductions for maintenance payments.

Changes to the posting of workers

The provisions on the posting of workers have also been significantly modified. Poland has implemented into its legal order Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 concerning the posting of workers in the framework of the provision of services.

For this reason, amendments were made to the Polish Act of 10 June 2016 on the posting of workers in the framework of the provision of services. The amendments made the rules on the posting of workers more detailed by, among others:

- extending the scope of the definition of “the employer posting a worker” so as to include temporary work agencies or recruitment agencies
- introducing an obligation to pay all components of salary (and not only the minimum wage) resulting from the provisions of the Polish employment law;
- introducing an obligation to pay amounts to cover the costs of business trip to the place where the worker has been posted or to another place of performing employee duties within or outside the territory of Poland;
- introducing a 12-month guarantee period for applying the minimum employment conditions (after 12 months the employer will have to ensure not only the minimum employment conditions resulting from the Labour Code, but also resulting from other provisions regulating the rights and obligations of employees)
- introducing the principle of adding up periods of posting employees who perform the same task in the same place
- extending the competences of the National Labour Inspectorate (PIP) by additional control powers.

Further implementation of Employee Capital Plans (PPK)

In 2019, the Act on the introduction of a special mechanism of Employee Capital Plans aimed at the systematic accumulation of savings came into force. The first group of employers was required to establish the Employee Capital Plans in 2019, followed by two more in 2020. Due to the outbreak of the pandemic, the deadline for the introduction of the Employee Capital Plans for employers in the second group (those employing at least 50 persons as of 30 June 2019) was postponed by six months and, as a result, was the same as the deadline set by the Act for employers employing at least 20 persons. However, both groups were still required to introduce the Employee Capital Plans in 2020. The remaining employing entities are required to introduce the Employee Capital Plans in 2021.



Zapraszamy do kontaktu

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