



# HR Alert

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## New draft act regulating remote work and sobriety tests for employees

**A new draft act regulating remote work and determining the manner of testing employees' sobriety has appeared on the Government Legislation Centre's website. The Labour Ministry has decided to collectively regulate these two issues which are important for employers. Below, we present the most important provisions of the new draft act.**

### Employee sobriety tests

1. Employers will be able to introduce employee sobriety tests and tests to detect the presence of intoxicants having similar effects to alcohol (“**sobriety testing**”). It will be possible to introduce the testing if it is necessary to ensure the protection of life, health, or property.
2. Sobriety testing may be carried out not only with respect to employees, but also persons carrying out work under civil law agreements.
3. An employer may only carry out a test by only using methods which do not require a laboratory test. At the request of either the employer or the employee who is not allowed to work, a test may be carried out by a body appointed to protect public order (the police or the municipal guard). Employees who refuse to be examined by the relevant services will be referred for blood or urine tests.
4. Employers will only be authorised to process information about the test and store the result if an intoxicated state is found. Test results may be kept in an employee's personal file for one year, or, in the case of the employee being subject to a disciplinary penalty, until the penalty is considered null and void.
5. The employee will retain the right to remuneration for the time they are not allowed to work only if the test does not confirm the presence of alcohol or intoxicating substances.
6. The rules for conducting sobriety testing will be regulated in a collective labour agreement, work regulations, or a notice. The employer should determine the groups of employees covered by the tests, how the tests are conducted, the type of equipment used, and the time and frequency of the tests.
7. The catalogue of circumstances justifying a disciplinary penalty being imposed on an employee will be supplemented by a situation in which the employee came to work in a state after using a substance having a similar effect to alcohol, or took such a substance during work.
8. Detailed rules on testing will be laid down in a regulation. The regulation will specify the conditions and methods of testing, how the testing will be documented, and the list of substances having similar effects to alcohol.

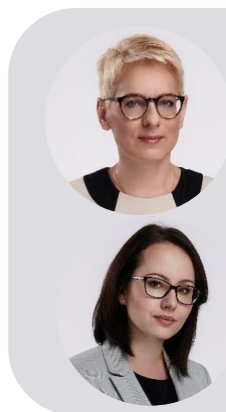
## Remote work

1. Remote work will be allowed:
  - at the employer's instruction,
  - during a state of emergency,
  - during a state of epidemic threat,
  - during a state of epidemics, or
  - in a situation where, due to force majeure, it is not possible to ensure safe and hygienic working conditions.
2. The draft provides for the possibility of occasional remote work of up to 24 days per calendar year. Occasional remote work will be possible at the employee's request if accepted by the employer.
3. An instruction to work remotely will not require the employee's consent. The employee will have to submit a declaration that they have the appropriate premises and technical conditions.
4. The employer will be obliged to consider a request for remote work for:
  - employees bringing up a child under 4 years of age, and
  - employees caring for a person with a certificate of disability or a significant degree of disability.

The new version of the draft modifies the group of persons entitled to submit a request by adding pregnant employees. According to the new version of the draft, employees caring for persons with a moderate degree of disability will not be able to submit a request. The employer may refuse to grant consent only if, due to the organisation of work or the type of work, it is not possible to perform work remotely.

5. Employees working remotely will be entitled to an allowance in the amount agreed upon with the employer or a lump sum to cover the costs incurred. The employer will have to provide the employee with the necessary technical equipment to carry out remote work.
6. Both the employer and the employee have the right to request that the remote work be discontinued. The request may be made at any time. The new version of the draft provides that the employer may not request the discontinuation of remote work for pregnant employees, employees bringing up a child under 4 years of age, or those caring for a disabled person.

7. According to the new version of the draft, if health and safety deficiencies or violations of personal data protection procedures are found, the employer may oblige the employee to remove them within a specified period of time or withdraw consent to perform remote work.
8. The new version of the draft provides that an inspection of how remote work is performed, as well as compliance with health and safety rules and the protection of personal data, must be carried out in accordance with the rules agreed with the employee. An inspection may be performed in agreement with the employee, at the place of remote work, and during the employee's working hours.
9. The scope of the employer's health and safety obligations has also changed. The new version of the draft provides that the employer will not be obliged to:
  - co-operate with other employers when employees from different employers are working in the same place,
  - perform first aid duties,
  - organise workplaces in accordance with occupational health and safety provisions,
  - take care of the safe and hygienic conditions of work premises, technical equipment, or ensure adequate working premises,
  - provide prophylactic meals and drinks, or
  - provide appropriate hygiene and sanitary facilities and necessary personal hygiene measures.
10. According to the new wording of the draft, requests for which the Labour Code or other implementing laws require a written form may be submitted in a paper or electronic form.



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