

HR Alert

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Remote working and sobriety checks Act is waiting for the President's signature

On 13 January 2023, The Sejm passed the Remote Working and Sobriety Control Act, rejecting all amendments proposed by the Senate. The Act is now awaiting the President's signature and publication.

We would like to remind you that according to the Act, the amendments will enter into force respectively:

- **14 days** after the promulgation of the Act - with regard to the provisions on sobriety checks;
- **2 months** after the promulgation of the Act - with regard to the provisions on remote working.

Remote working

1. Remote working will be work carried out wholly or partly at a location designated by the employee and agreed with the employer.
2. Remote work can be introduced either at the stage of concluding an employment contract or during employment. The employer will be able to unilaterally assign remote work only in special cases – during a declared state of emergency, epidemic threat, or epidemic, and within 3 months after that state was lifted or when necessary due to the obligation to ensure health and safety conditions at work for the employee. In principle, remote work will require the employee's consent.
3. The terms of performing remote work will be defined in the form of:
 - an agreement concluded with trade unions,
 - regulations issued by the employer after consultations with employee representatives,
 - an agreement concluded with the employee, or
 - an assignment to perform remote work.
4. The employer will be obliged to provide the employee with the necessary materials and tools for remote work. The employee's use of their own equipment, materials, and tools will require the payment of a cash allowance or lump sum.
5. The employee will be entitled to occasional remote work for up to 24 days per year.

Please note that, with the entry into force of the new remote working regulations, the remote working provisions of the Anti-Crisis Shield legislation will no longer apply.

Sobriety checks

1. Sobriety checking employees may take the form of a preventive check or a check if there is a reasonable suspicion that an employee is in a state of drunkenness after the use of alcohol or other substances.

2. The employer will be obliged to regulate the rules of the preventive checks in the work regulations, collective agreement, or notice, and to notify employees of the introduction of these rules 2 weeks in advance. The rules to be introduced will have to be agreed in advance with the trade unions.
3. Sobriety checks will be used by the employer to protect the life and health of employees and other persons or to protect property. For the checks, the device used must have a valid document confirming its calibration.
4. At the employer's request, sobriety checks will be carried out by a body established to protect public order (e.g. the police).
5. A state after the use of alcohol means a content of more than 0.2 ‰ of alcohol concentration in blood or more than 0.1 mg of alcohol concentration in the employee's exhaled air.
6. Controls will also be possible with respect to persons cooperating with the employer based on civil law contracts, e.g. a contract of mandate, contract of specific work, or B2B.



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