

JANUARY 2021

LEGAL ALERT

EMPLOYMENT LAW



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Below please find information on labor law and social security-related issues that are important for both employers and employees.

Random drug and alcohol testing in the workplace



The Ministry of Development, Labor and Technology has informed the Polish Commissioner for Human Rights that it is working on a **bill to allow employers - under certain conditions - to introduce random testing for the presence of alcohol or drugs of similar effect in the workplace.**

More on this topic can be found here:

<https://www.rpo.gov.pl/pl/content/mrpit-do-rpo-planowane-kontrole-trzezwo%C5%9Bci-pracownikow-przez-pracodawcow>

The European Parliament calls on the European Commission to propose legislation on the "right to disconnect"

On January 21, 2021 the European Parliament called on the European Commission to propose legislation to enable people working digitally to disconnect from the network after working hours. According to the European Parliament, the new law should establish minimum requirements for remote working and clarify working conditions, hours and rest periods.

More on this topic can be found here:

<https://www.europarl.europa.eu/news/en/press-room/20210114IPR95618/right-to-disconnect-should-be-an-eu-wide-fundamental-right-meps-say>

The Commissioner for Human Rights calls for amendments of the Anti-Crisis Shield regarding termination of non-competition agreements

Under article 15gf of the Anti-Crisis Shield:

For the duration of the state of epidemic announced due to COVID-19, one of the party to a non-competition agreement that survives the employment relationship may terminate that agreement upon seven days' notice. This applies when an employment relationship, agency agreement, or a contract for freelance services comes to an end. The rule also applies to any other kind of service agreement to which, according to the Civil Code, provisions on contracts for freelance services and contracts for a specific work apply.

The Commissioner for Human Rights has received many complaints in this matter. This rule makes life easier for entrepreneurs, but shifts costs onto individuals, who practically from one day to the next are deprived of payments under a non-competition agreement. The Commissioner for Human Rights has appealed to the Minister of Development, Labor and Technology to take steps to amend this provision.

More on this topic can be found here:

<https://www.rpo.gov.pl/pl/content/koronawirus-zakaz-konkurencji-wypowiedzenie-RPO-MRPiR>

Additional child care allowance



- **the period** for which additional child care allowance is due has been extended until January 31, 2021
- the allowance is granted to parents who look after children under the age of eight, due to closure of schools, kindergartens, and nurseries due to COVID-19
- the benefit is 80 per cent of the benefit calculation base

More on this topic can be found here:

<https://dziennikustaw.gov.pl/DU/2021/107>

Minimum remuneration for work in Poland in 2021

From January 1, 2021:

- the minimum monthly salary is PLN 2,800
- the minimum hourly rate is PLN 18.30.

In view of the increase in the minimum remuneration as of January 1, 2021, the maximum amount of severance pay (15 times the minimum wage) also increased as of that date.

More on this topic can be found here:

<https://dziennikustaw.gov.pl/DU/rok/2020/pozycja/1596>

Obligation to report to the Social Insurance Institution (ZUS) contracts for specific work concluded from January 1, 2021 onwards

The obligation to report contracts for specific work to the Social Insurance Institution (ZUS) applies to persons paying contributions and those who commission specific work from January 1, 2021, onwards. The notification must be filed within seven days from the date of conclusion of the contract.

The information can be submitted to ZUS using the new RUD form. The RUD form can be submitted electronically using the Electronic Services Platform (PUE ZUS).

The form has been divided into three blocks, in which the following information must be given:



- details of the client commissioning the specific work - identifying data and address,
- details of the contractor - identifying data and address of the person with whom the contract for a specific work was concluded,
- information about the concluded contracts for specific work - dates of conclusion, dates of performance (start and end dates) and number of concluded contracts.

There are certain exceptions to the notification obligation. The obligation to provide information does not apply to contracts for specific work, which, for instance:

- the employer enters into with someone who is their own employee,
- are concluded with a third party, but concern work delivered to someone's employer.

More on this topic can be found here:

<https://www.zus.pl/baza-wiedzy/katalog-uslug/karty-uslug-inne>

BKB lawyers comment in the press:

<https://praca.gazetaprawna.pl/artykuly/8054674,rejestr-umowa-o-dzielo-zus-obowiazek-zmiany-2021.html>

Time limit for periodical medical examinations extended

During the state of epidemic, periodical medical examinations of employees are suspended, but will have to be performed when the state of epidemic ends.

- “Anti-Crisis Shield 6.0”, which is the Act of December 9, 2020 amending the act passed to deal with COVID-19, **extended time limits for periodical medical examinations - from the previous 60 days to 180 days from the day on which the state of epidemic threat or the state of epidemic is lifted in Poland.**

- “Anti-Crisis Shield 6.0” also extended the list of cases in which an employer does not have to send an employee to undergo initial medical examinations, and extended the period of validity of medical certificates issued during initial and periodical examinations and medical check-ups which expired after March 7, 2020 - from the current 60 days to 180 days from the day on which the state of epidemic threat or the state of epidemic is lifted in Poland.

“Anti-Crisis Shield 6.0” entered into force on December 16, 2020.

More on this topic can be found here:

<https://dziennikustaw.gov.pl/DU/rok/2020/pozycja/2255>

Review of the question of occupational hazard due to SARS-Cov-2

According to an amendment to the Regulation of the Minister of Health on protection of health in the workplace, from December 29, 2020 onwards, employers are required to review the occupational hazard assessment conducted before the amendment took effect. This review must take into account new biological factors at the workplace, which are listed in Annex 1 to the amendment. This review must be carried out:

- within 30 days with respect to SARS-CoV-2 issues
- by November 20, 2021 with respect to other issues.

More on this topic can be found here:

<https://dziennikustaw.gov.pl/DU/rok/2020/pozycja/2234>

Implementation of Employee Capital Plans (PPK)

Employee Capital Plans (PPK) are a common, voluntary and private long-term saving scheme for people working in an organization.

From January 1, 2021 the following entities are required to introduce PPKs:

- organizations with a headcount of less than 20
- entities in the public finance sector.

More on this topic can be found here:

<https://www.biznes.gov.pl/pl/firma/pracownicy-w-firmie/chce-przestrzegac-praw-pracowniczych/pracownicze-plany-kapitalowe-ppk>

Single additional standstill benefit for persons working under civil law contracts in the selected sectors

As of January 15, 2021, it is possible for persons working under civil law contracts to apply for a single additional standstill benefit. It applies to persons working among others in the artistic and architectural sectors. The application is submitted electronically via the the e-government social security platform (PUE ZUS), no later than three months from the time the epidemic state come to an end.

More on this topic can be found here:

<https://www.zus.pl/o-zus/aktualnosci/-/publisher/aktualnosc/1/od-15-stycznia-osoby-wykonujace-umowy-cywilnoprawne-moga-wystapic-o-jednorazowe-dodatkowe-swiadczenie-postojowe/3782030>

Financial support for selected sectors

As of January 15, 2021, it is possible to apply via e-banking for subsidies under the Financial Shield PFR 2.0. The financial support is targeted at small and medium-sized enterprises in a total of 45 sectors and at large enterprises in 38 sectors that employed at least one employee on December 31, 2019 or July 31, 2020. The subsidies can be used to cover costs of employee remuneration, the costs of purchasing materials and goods, rental costs, and public levies, and other costs.

The deadline for applications for small and medium-sized enterprises is February 28, 2021, and for large enterprises March 31, 2021.

More on this topic can be found here:

<https://pfrsa.pl/tarcza-finansowa-pfr/tarcza-finansowa-pfr-20.html#mmssp>

Subsidies for part of posted workers' remuneration and social security contributions

The Minister of Development, Labor and Technology stated in clarifications that a subsidy on the basis of the “Anti-Crisis Shield” covering part of employees' remuneration and social security contributions deducted from employees' remuneration, may apply not only to the employees currently working in Poland, but also to workers posted abroad.

More on this topic can be found here:

<https://rzecznikmsp.gov.pl/na-wniosek-rzecznika-msp-mrpit-wydal-objasnienia-prawne-w-zakresie-dofinansowania-czesci-kosztow-wynagrodzen-oraz-skladek-na-ubezpieczenia-spoleczne-w-przypadku-zatrudniania-pracownikow-oddelegowany>

Authors

- ◆ Michał Bering
- ◆ Katarzyna Fiedeń
- ◆ Paweł Krzykowski
- ◆ Łukasz Łaguna
- ◆ Bartosz Retkowski
- ◆ Magdalena Solich

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