



Legal Alert

Anti-virus shield for employers

1 April 2020

A set of provisions known as the “anti-crisis shield”* will help employers amend work conditions during the COVID-19 epidemic and obtain support for dealing with its effects. Below we discuss some solutions and entitlements available to employers under the new provisions.

Economic downtime, modification of working time, and co-financing from the Guaranteed Employee Benefits Fund

The new regulations allow employers to obtain funding from the Guaranteed Employee Benefits Fund if they experience a decline in economic turnover and agree, in consultation with trade unions or employees, to introduce economic downtime or reduced working time.

The key factor in co-financing—a decrease in economic turnover—means a decrease in sales of goods or services, in volume or value, of:

- Not less than 15%, as the ratio of total economic turnover within two consecutive months in the period after 1 January 2020 to the total turnover from the same two months of the previous year, or
- Not less than 25%, as the ratio of total economic turnover during any given month in the period after 1 January 2020 to the economic turnover from the previous month.

Employers who have experienced a decline in economic turnover are entitled to:

- Reduce the working time of employees by 20%, but to no less than half of full-time, and reduce their remuneration to no less than the minimum remuneration for work, including working time.

In this case, the employer may receive funding of up to half of the employee’s salary, but not more than 40% of the average monthly salary from the previous quarter. In the case of remuneration for the fourth quarter of 2019 published by Statistics Poland (GUS), this means that the state will finance the employee’s monthly remuneration up to PLN 2,079.43.

- Introduce economic downtime and reduce employees’ remuneration by no more than 50%, to an amount not lower than the minimum remuneration for work, including working time.

In this case, the employer can obtain co-financing of employee remuneration in the amount of 50% of the minimum remuneration for work (PLN 1,300 per month).

In both cases, the co-financing will also cover social security contributions due on the co-financed remuneration.

We can help

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* Act of 31 March 2020 Amending the Act on Special Solutions for Preventing, Counteracting and Combating COVID-19, Other Infectious Diseases and Crisis Situations Caused by Them, and Other Acts (Journal of Laws Dz.U. 2020 item 568).

The remuneration subsidy will not be payable to employees whose remuneration for the month preceding the application for co-financing exceeded three times the average monthly remuneration from the previous quarter published by Statistics Poland (as of today, PLN 15,595.74).

The conditions for introducing economic downtime or reduced working time are to be determined by the employer in agreement with trade unions or employee representatives and submitted, within 5 days of reaching agreement, to the appropriate regional labor inspector.

Co-financing on the basis of a contract with the county

Co-financing for employees' remuneration and social security contributions may also be available to micro, small and medium-sized enterprises on the basis of an agreement with the head of the local county (*starosta*).

The new regulations contain detailed requirements and rules for this type of financing, including an obligation to maintain employment.

Other possible modifications of working time

An employer that regularly pays its public charges and, as a result of COVID-19, has noted a decline in economic turnover may:

- Reduce the minimum daily rest (to not less than 8 hours) and weekly rest (to not less than 32 hours), balancing it across a period of not longer than 8 weeks
- Conclude an agreement introducing a balanced working time system with a maximum working time reference period of 12 months
- Conclude an agreement on application of less favorable employment conditions than those envisaged in employment contracts.

Agreements in this respect will be concluded with trade union organizations or employee representatives and also submitted to the appropriate labor inspector. Conclusion of such an agreement causes a temporary change in employment conditions without the need for further actions.

Employers conducting activities related to ensuring the functioning of critical infrastructure have additional rights related to the organization of working time, including changing working time schedules and ordering overtime work.

Release from social security contributions

For employers with fewer than 10 employees, the new regulations provide for an exemption from the obligation to pay contributions for a period of three months. Release is made upon an application submitted to the Social Insurance Institution (ZUS) after meeting additional requirements provided for in the new regulations.

Medical checkups of employees

During the state of epidemic, any physician may conduct preliminary and follow-up medical checkups. The examination can be carried out remotely. A certificate issued in such circumstances will be valid for 30 days after cancellation of the state of epidemic.

Preliminary, periodic and follow-up medical checkups which expire after 7 March 2020 will remain valid until 60 days after the state of epidemic is cancelled.

Postponement of deadline for introducing employee capital plans

The deadline for implementing employee capital plans (PPK) for employers employing from 50 to 259 persons has been postponed by 6 months, and will be the same as for employers employing from 20 to 49 people. As a result of the amendment, the deadline for concluding a PPK management agreement will be 27 October 2020, and the deadline for concluding a PPK maintenance agreement will be 10 November 2020.

Changes regarding employment of foreigners

The validity of work permits and statements of intention to entrust work to foreigners expiring during the state of epidemic or state of epidemic threat will be automatically extended until 30 days after cancellation of the last applicable state.

Similar rules apply to the deadlines for submitting applications for temporary residence permits. The foreigner's stay during the extended period will be considered legal if the foreigner submits the application within this period.

How can we assist?

We can explain the new rules. We can advise you on which of the available solutions is the most advantageous and what conditions must be met to apply it. We can tell you what actions you need to take and assist you in preparing the required documents. We can participate in negotiations with trade unions and employee representatives. We can help in implementing new solutions and preparing documents after the crisis.

Coronavirus

We offer support in a time of crisis

If you need legal advice on the impact of the coronavirus threat on your business, our multidisciplinary team is ready to work with you.

Contact us at: **coronavirus@eversheds-sutherland.pl**

If your company operates abroad and you need legal support in a specific country, the international team of Eversheds Sutherland is ready to assist.

Publications

Our articles on the epidemic's impact on business may be found on *our site in Polish* >>

Lots of valuable legal information about other countries can be found on the special page launched by Eversheds Sutherland *Coronavirus Legal Hub* >>