

Labour Law alert – changes in connection with the COVID-19 epidemic

The Act Amending the Act on Specific Solutions for Preventing, Counteracting and Combating COVID-19, Other Infectious Diseases and the Resulting Crises and Certain Other Acts adopted by the Sejm on 31 March 2020 (the "Act") introduces forms of support for employers and employees in the event of a drop in turnover caused by the COVID-19 pandemic.

The support provided for in the Act is independent of the legal tools already available such as:

- a) standard changes in employment relationships intended to limit the amount of remuneration and reduce working hours under the Labour Code (annexes to employment contracts or unilateral changes in the form of an amending notice);
- b) the temporary suspension of internal company regulations concerning employment and remuneration conditions allowed under the Labour Code;
- c) group dismissals and voluntary redundancy programmes.

The Act makes it possible to apply for co-financing for remuneration. This depends, however, on the size of the employer's company, the amount of remuneration paid so far, as well as the scale of the drop in turnover. The Act includes the following solutions:

- 1) Co-financing of remuneration **in the event of an economic standstill** [przestoju ekonomicznego] – 50% of the Polish minimum wage (currently **PLN 1,300**).

A condition for co-financing: remuneration during this time may be reduced by no more than 50%, and must remain in accordance with the regulations on the minimum wage.

- 2) Co-financing of remuneration in the event the employer does not announce a work stoppage, but decides **to reduce the working hours of employees**, and, consequently, the remuneration – up to 40% of the average monthly remuneration in the preceding quarter (currently approx. **PLN 2,080**).

Conditions for co-financing: (i) working hours can be reduced by up to 20%, but not to less than 0.5 of full time, and (ii) the remuneration is determined in accordance with the regulations on the minimum wage.

- 3) The Act also includes a regulation on co-financing **social insurance contributions** for employees, which is due from the employer on the payments referred to in points 1 and 2. A full, three-month exemption from the payment of contributions is provided only for micro-enterprises (with up to nine employees).
- 4) A condition for the co-financing specified in points 1 and 2 above is a drop in the employer's turnover in 2020 by at least 15% in the period of two consecutive months, or by at least 25% in one month before filing an application for co-financing, in comparison to the same period in 2019. In addition, a condition for co-financing is not being in arrears with tax and social insurance contributions at the end of 3Q19. Co-financing covers the remuneration of employees and civil law contractors.

- 5) The benefits from points 1 and 2 are paid only during a work stoppage or a period of reduced working hours, and for no longer than **three months**. The co-financing will not include employees/contractors whose last remuneration exceeded 300% of the average monthly remuneration in the previous quarter (currently: PLN 15,595.74).
- 6) Work stoppage and reduced working hours are introduced through an **internal agreement** with trade unions or employee representatives. If an agreement is concluded, further changes to the employment contract, such as annexes or amending notices, are unnecessary.
- 7) For contractors and others conducting non-agricultural business activity before 1 February 2020, the Act provides – under certain conditions – for a **lump sum payment** amounting to 80% of the minimum remuneration for work (**PLN 2,080**). The amount of the benefit may vary in certain cases.
- 8) Micro, small and medium employers may also obtain **additional co-financing** granted by the local authority, from 50% to 90% of the minimum remuneration, depending on the percentage drop in the employer's turnover. The same benefit can be obtained by enterprises with no employees.
- 9) According to the Act, the various support tools cannot be combined for one person, on the same grounds.
- 10) For an employer experiencing a drop in turnover, the Act allows for working time to be made more flexible by limiting the hours of uninterrupted rest, extending the daily working time to 12 hours, and allows agreements on the application of less favourable conditions of employment than those resulting from employment contracts.
- 11) The Act also allows for working time to be more flexible by changing the system or working time schedule, and by making it easier to require overtime work. This is a solution only for the duration of a state of epidemic/epidemiological threat, and only for selected entities operating in critical infrastructure, liquid fuel stations, natural gas stations and other entities designated by the Prime Minister. It also comes with an obligation for employers to provide accommodation and food for employees, but allows the employer the possibility to refuse, postpone or cancel leave.



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