INFORMATION FOR EMPLOYERS

On 24 June 2020 a new amendment to the Speclaw on COVID-19 (Anti-Crisis Shield 4.0) came into force. The Anti-Crisis Shields introduced various measures which are important for employers.

1. Funding of employees' remuneration

Employers may be entitled to the following forms of funding:

- **introducing economic stoppage** in relation to all or some employees and reducing their remuneration by up to 50%, but not lower than to PLN 2,600 gross (minimum remuneration) monthly for full time employment
  
  → the funding from the Guaranteed Employee Benefits Fund will equal PLN **1,300** (50% of the minimum remuneration) monthly for full time employment, increased by the amount of social security contributions due from the employer from this amount (approx. PLN 233.09)

- **reducing the working time** of all or some employees by up to 20% (but not lower than 0.5 of the full time) and reducing their remuneration accordingly, but not lower than to PLN 2,600 gross (minimum remuneration) monthly for full time employment
  
  → the funding from the Guaranteed Employee Benefits Fund will be up to **PLN 2,132.59** monthly (50% of the reduced remuneration, but not more than 40% of the average monthly remuneration in the previous quarter) for full time employment, increased by the amount of social security contributions due from the employer from this amount (approx. PLN 382.37)

- the funding of remuneration of employees who are not covered by stoppage, economic stoppage or reduced working time
  
  → the funding from the Guaranteed Employee Benefits Fund will be up to **PLN 2,132.59** monthly (50% of the remuneration; however, no more than 40% of the average monthly remuneration from the previous quarter) monthly for a full-time job, increased by the amount of social security contributions payable by the employer from this amount (approx. PLN 382.37)

- the funding from the Labor Fund of an employee's remuneration (not related to stoppage, economic stoppage or reduced working time) in an amount depending on the fall in turnover:
  
  o fall in turnover of at least 30% - funding up to **PLN 1,300** monthly (50% of the minimum remuneration), increased by the amount of social security contributions due from the employer
The above forms of funding are available:

- for up to 3 months (paid monthly)
- in relation to employees and persons hired under contracts of mandate or other service contracts (civil law agreements).

Employers may benefit from various forms of funding in relation to different groups of employees. However, **it is not possible to benefit from more than one form of funding for the same employee and for the same period.**

<table>
<thead>
<tr>
<th>Conditions for receiving funding of employees’ remuneration</th>
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<tbody>
<tr>
<td><strong>For employees covered by economic stoppage or reduction of working time</strong> (the funding from the Guaranteed Employee Benefits Fund based on an agreement with the voivodeship labor office)</td>
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<tr>
<td>available for entrepreneurs, non-governmental organizations and public benefit organizations</td>
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</tbody>
</table>
| fall in turnover resulting from COVID-19 of at least:
  - 15% during any 2 consecutive months after 31 December 2019 in comparison to the same 2 months in the previous year, or
  - 25% in any chosen month after 31 December 2019 | fall in turnover resulting from COVID-19 of at least:
  - 15% during any 2 consecutive months after 31 December 2019 in comparison to the same 2 months in the previous year, or
  - 25% during any consecutive month after 31 December 2019 | fall in turnover resulting from COVID-19 of at least 30% during any 2 consecutive months after 1 January 2020 in comparison to the same 2 months in the previous year → a month is also understood as 30 consecutive days |
<table>
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<th>comparison to the previous month → a month is also understood as 30 consecutive days</th>
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<tr>
<td>• concluding an agreement with trade unions or employees' representatives (if there are no trade unions). → in case of difficulties in conducting elections of employees' representatives due to COVID-19, such agreement may be concluded with the employees' representatives previously elected for other purposes resulting from the labor law</td>
<td>• lack of obligation to conclude an agreement with trade unions or employees' representatives</td>
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<td>• no arrears in payment of tax and social security contributions until the end of the third quarter of 2019</td>
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<td>• no grounds to declare bankruptcy</td>
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<td>• the funding is not available for persons whose remuneration in the month preceding filing the motion was higher than PLN 15,994.41 (300% of the average monthly remuneration in the previous quarter)</td>
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<td>• the funding is available regardless of the amount of employees' remuneration</td>
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<tr>
<td>• prohibition to conduct dismissals based on economic reasons of employees covered by the funding during the period of funding</td>
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<td>• obligation to continue employment of employees covered by the funding during the period of funding</td>
</tr>
</tbody>
</table>
2. Additional measures of employers in the event of a fall in turnover

The employer may:

- reduce the employee’s working time by up to 20% but not lower than to 0.5 of the full time (the remuneration may not be lower than the minimum remuneration for full time employment, taking into account the working time before the reduction); or
- cover the employee with economic stoppage, (the remuneration may be reduced by up to 50%, but not lower than the minimum remuneration for full time employment, taking into account the working time).

The conditions for applying such measures are as follows:

- the ratio of the employees' remuneration costs (including social security contributions financed by the employer) to the revenues from the sale of goods or services from a chosen month after 1 March 2020:
  - is at least 30%, and
  - is increased by at least 5% in comparison to the previous month.
  → a month is also understood as 30 consecutive days
- concluding an agreement with trade unions or employees' representatives (if there are no trade unions).

The above measures may be applied no longer than 12 months after the date of cancellation of the state of emergency or state of epidemic.

3. Flexible working time of employees

Employers may be entitled to:

- shorten the obligatory rest periods of employees - the daily rest period to at least 8 hours and weekly rest period to at least 32 hours (while ensuring that the equivalent rest period is granted within 8 weeks)
- introduce a balanced working time system and extend daily working time up to 12 hours, in the reference period of up to 12 months
- apply less beneficial employment conditions than those determined in the employment contracts.

The conditions for introducing these flexible solutions are as follows:

- no arrears in payment of tax and social security contributions until the end of the third quarter of 2019 (with minor exceptions)
- fall in turnover resulting from COVID-19 as described in point 1 above or increase of the ratio of employees' remuneration costs to revenues from the sale of goods or services as described in point 2 above
• concluding an agreement with trade unions or employees' representatives (if there are no trade unions) - in order to introduce a balanced working time system or apply less beneficial employment conditions than those determined in the employment contracts of the employees.

→ in case of difficulties in conducting elections of employees' representatives due to COVID-19, such agreement may be concluded with the employees' representatives previously elected for other purposes resulting from the labor law.

4. Social security contributions

Entrepreneurs may be entitled to full or partial exemption from unpaid social security and health insurance contributions if they file a relevant motion with the Social Security Office (ZUS) no later than on 30 June 2020:

- employers who registered fewer than 10 persons for social security – **full exemption for 3 months** (March, April, May 2020)
- employers who registered from 10 to 49 persons for social security – **50% exemption for 3 months** (March, April, May 2020)
- self-employed persons who conducted business activity before 1 April 2020, and their revenue in the first month of the exemption did not exceed 300% of the projected average monthly remuneration – **full exemption for 3 months** (March, April, May 2020);
- self-employed persons who conducted business activity before 1 April 2020 and their revenue in the first month of the exemption exceeded 300% of the projected average monthly remuneration, but their income did not exceed PLN 7,000 – **full exemption for 2 months** (April, May 2020)
- self-employed persons benefiting from the so-called **Relief for Start** who conducted business activity before 1 April 2020 and whose revenue in the first month of the exemption did not exceed 300% of the projected average monthly remuneration or exceeded 300% of the projected average monthly remuneration, but their income did not exceed PLN 7,000 – **full exemption for 2 months** (April, May 2020).

In the event that the social security contributions for the period of exemption have already been paid, entrepreneurs may apply for a refund. In addition, based on a motion filed during a state of epidemic emergency or state of epidemic or 30 days after their cancellation, all employers may be entitled to exemption from:

- **interest for late payment** of contributions for the period from 1 January 2020
- **extension fee** in case of deferring or paying contributions in installments for the period from 1 January 2020.
5. Deadline for payment of tax advances from income from employment relationships

Employers who faced negative economic consequences due to COVID-19 may benefit from the extended deadline to pay income tax advances on remunerations collected in March and April 2020. The new deadline to fulfill the obligation is 1 June 2020.

6. Medical examinations of employees

During a state of epidemic emergency or state of epidemic, employers:

- are not obliged to refer employees for periodic examinations. The suspended obligations will need to be fulfilled within 60 days from cancellation of the state of epidemic emergency or state of epidemic; and

- are still obliged to refer employees for initial and control examinations before allowing them to work. If an occupational doctor cannot perform such medical examinations, another doctor may conduct the examinations. Such examinations performed by another doctor will expire after 30 days from the date of cancellation of the state of epidemic emergency or state of epidemic.

Medical certificates and documents confirming skills and qualifications that expired after 7 March 2020 are valid, but no later than up to 60 days from the date of cancellation of the state of epidemic emergency or state of epidemic.

7. Health and safety trainings

During a state of epidemic emergency or state of epidemic, employers may conduct initial health and safety trainings via electronic means of communication (except for work post training for some types of work, e.g. blue-collar work or work posts which involve dangerous tasks).

Moreover, during a state of epidemic emergency, state of epidemic and 30 days after their cancellation, employers are not obliged to conduct periodic health and safety trainings. The deadline for conducting such trainings is 60 days after the cancellation of the state of epidemic emergency or state of epidemic.

8. Employee Capital Plans (PPK)

Employers hiring at least 50 persons (as at 30 June 2019) are entitled to conclude agreements on Employee Capital Plans (PPK) at a later date, i.e. the agreement on managing PPK should be concluded by 27 October 2020 and the agreement on operating PPK should be concluded by 10 November 2020 (extension of the deadline by 6 months).
9. Additional measures for employers in strategic sectors

During a state of epidemic emergency or state of epidemic, employers operating in selected strategic sectors are entitled to ensure the continuity of their activity by:

- modifying the working time system or schedule of employees
- instructing employees to work overtime as necessary
- instructing employees to serve on-call duties without the standard limits relating to obligatory minimum daily and weekly rest periods
- instructing employees to spend their rest periods in a place indicated by the employer, e.g. at the workplace.

The above measures may be applied by strategic employers, including entities that are a part of the critical infrastructure, suppliers and subcontractors supporting the continued activity of the critical infrastructure, and entities conducting banking activity or activity related to manufacturing or delivering food.

10. Legalization of residence of foreigners

Foreigners who would be obliged to file motions to legalize their residence during a state of epidemic emergency or state of epidemic benefit from the following facilitations:

- extension of the residence period and validity of their visa until the 30th day following the date of cancellation of the state of epidemic emergency or state of epidemic, and;
- extension of the period of validity of their residence permit until the 30th day following the date of cancellation of the state of epidemic emergency or state of epidemic;
- extension of the period of validity of their residence card until the 30th day following the date of cancellation of the state of epidemic emergency or state of epidemic;
- extension of the period of validity of their provisional identity certificate until the 30th day following the date of cancellation of the state of epidemic emergency or state of epidemic.

Moreover, if an employer modifies a foreigner’s conditions of work based on the Anti-crisis Shield provisions, changing the document or applying for a new document allowing the foreigner to perform work in Poland is not required.

11. Stoppage allowance for persons hired under civil law contracts and for self-employed persons

Stoppage allowance of PLN 2,080 (80% of the minimum remuneration, with minor exceptions) may be granted to:
persons hired under civil law contracts who concluded their contracts before 1 April 2020, and their income in the month preceding the application was no more than 300% of the average monthly remuneration in the previous quarter

- self-employed persons who did not suspend their business activity, and their income in the month preceding the application fell by at least 15% compared to the previous month


The conditions for being granted the allowance are as follows:

- not being subject to social insurance under another legal title
- stoppage in the economic activity of, respectively, the principal or the self-employed person due to COVID-19, and
- filing an application to the Social Insurance Office (ZUS) no later than 3 months after the end of the state of epidemic. The principal files an application on behalf of the person hired under a civil law contract. It can also be filed by the person hired under the civil law contract if the principal refuses to do so.

Stoppage allowance may be granted up to three times upon a statement of the entitled persons if they show that their financial situation did not improve.

12. Additional care allowance

Employees released from the obligation to perform work due to the necessity of taking care of a child aged up to 8 are entitled to an additional care allowance until 28 June 2020, regardless of whether schools and other care facilities resume their activities before that date.

Also, employees released from the obligation to perform work due to the necessity to take care of a disabled person are entitled to an additional care allowance.

13. Remote work

In order to counteract COVID-19, employers may unilaterally instruct employees to work remotely provided that:

- the employee has the skills, technical capabilities and the accommodation to perform remote work; and
- the type of work performed makes remote work possible.

In such a case:

- the employer must provide the tools and materials for work as well as the logistic support;
- the employee may use their own tools and materials only if this ensures the protection of confidential information;
14. Outstanding holiday leave
During a state of epidemic emergency or state of epidemic, the employer may grant the employee up to 30 days of outstanding holiday leave not used in previous calendar years:

- on the dates indicated by the employer;
- without the employee’s consent;
- disregarding the applicable holiday schedule.

15. Limitation of the amount of benefits related to termination of employment
During a state of epidemic emergency or state of epidemic, the amount of severance pay, compensation or other cash benefit resulting from the statutory provisions and paid by the employer may not exceed 10 times the minimum remuneration for work (PLN 26,000).

It concerns the following cases:

- termination of employment;
- termination of a contract of mandate, service contract and task-specific contract;
- termination of performing a function against remuneration.

The employer may benefit from this limitation in case of:

- a fall in turnover as described in point 1 above, or
- an increase of the ratio of the employees' remuneration costs to the revenues from the sale of goods or services, as described in point 2 above.

16. Suspension of obligations related to the company social fund
During a state of epidemic emergency or state of epidemic, the employer may suspend obligations related to the functioning of the company social fund, i.e.:

- establishing or operating the fund
- making a basic contribution to the fund
- paying holiday benefits from the fund.

The employer may benefit from this suspension in case of:

- a fall in turnover, as described in point 1 above, or an increase of the ratio of the employees' remuneration costs to the revenues from the sale of goods or services, as described in point 2 above, and
concluding an agreement with representative trade union organizations - if there are representative trade union organizations operating at the employer.

In addition, during this period, the provisions of the internal by-laws concerning the increased amount of the contribution to the fund do not apply (only the basic contribution is made).

17. Non-competition agreement after termination of employment or termination of a civil law contract

During a state of epidemic emergency or state of epidemic, the employer may terminate each post-contract non-competition agreement with 7 days' notice.

The above right concerns non-competition agreements binding after termination of an employment contract, contract of mandate, service contract and agency contract.

[As of 24 June 2020]