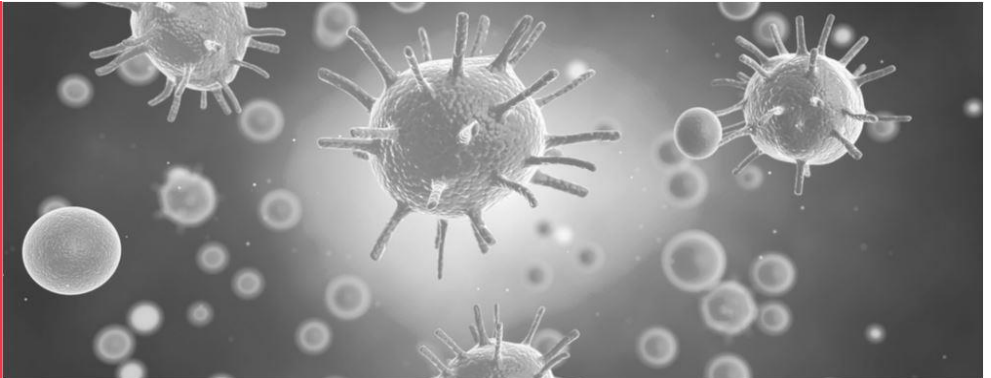


**CORONAVIRUS
ALERT****24/7**

Business support during coronavirus pandemic

Labour law

13 March 2020

The coronavirus pandemic means that employers have to adapt their work organisation to conditions they have never had to deal with before. We have prepared for you a list of the most significant personnel problems that employers have to face in the current situation and proposals for practical legal solutions. As, at the time this information is being prepared, the legislator is devising new solutions, we will be updating this alert on a regular basis.

Uncontrolled fall in the number of active employees caused by:

- workers being under home quarantine due to suspected coronavirus or 14-day quarantine due to entering Poland (including foreign workers, e.g. from Ukraine);
- difficulties in returning home from foreign trips;
- increased sick leave and hospitalisation of employees;
- employees taking advantage of the 14-day care allowance to care for children under 8 years of age, introduced by the so-called Special Act.¹

What can/should employers do?

- use the possibility to recommend remote working, if the nature of the work allows it;
- introduce remote working regulations at the workplace (or update those already in force);
- establish temporary rules for managing replacements while observing working time rules (e.g. dividing employees into groups that will replace each other at certain intervals and that will have no contact with each other – if coronavirus is suspected in an employee in one of the groups, the other groups will not be excluded from work).

¹ Act on Special Arrangements for Preventing, Counteracting and Combating COVID-19, Other Infectious Diseases and the Crises Caused by Them of 2 March 2020 (Journal of Laws of 2020 item 374).

Difficulties in workplace operation caused by:

- workplaces being closed for health reasons;
- practical impossibility of maintaining work continuity (e.g. due to suspension of supplies of goods).

What can/should employers do?

- entrust employees with work other than that specified in the employment contract, corresponding to the employees' qualifications, while maintaining the existing remuneration, e.g. developing a specific project at home, arranging documentation;
- announce a shutdown for organisational or economic reasons;
- instruct employees to take any overtime arrears;
- arrange for employees to take annual leave (only with the employee's consent; consent not required only during notice period);
- conclude an agreement with trade unions/employee representation to apply less favourable terms and conditions of employment than those under employment contracts (e.g. reduction in contractual bonuses, temporary reduction in working hours);
- consider reassessing occupational risks in certain positions.

The necessity of organising ad hoc remote working resulting in the need for:

- decisions to be taken for all or some staff to work remotely;
- the technical infrastructure in the organisation to be quickly adapted for remote working;
- new practice to be developed, inter alia, as regards the process of commissioning work, control of work performance and work delivery.

What can/should employers do?

- introduce comprehensive remote working rules adapted to the new situation, including, above all, rules on: health and safety (including liability for accidents at work), working time (confirming the start and end of work), contact with supervisors and co-workers, obligations to protect confidential information constituting trade secrets and personal data in the home, the use of equipment and settling electricity, internet and other costs;
- *NB*: existing rules on home office work are usually insufficient in the current situation as they are not adapted to "mass" work in remote form, and the legal concept of teleworking is too inflexible.

No business trips:

- due to increased exposure to coronavirus infection in means of transport/when travelling;
- based on Article 210 § 1 of the Labour Code (possibility to refrain from performing work if its conditions do not comply with health and safety regulations and pose a direct threat to the health or life of the employee or if the work performed poses a threat to other persons).

What can/should employers do?

- entrust employees with work other than that specified in the employment contract, corresponding to the employees' qualifications, and not requiring movement (especially important in the case of workers who travel frequently, e.g. sales representatives);
- allow work to be performed by means of distance communication;
- *NB*: employees must immediately inform their supervisors that they can no longer work for the above reason.

Heightened risk of breach of personal data protection regulations in connection with:

- a wider range of personal data being collected from employees (e.g. information on private trips made, state of health);

What can/should employers do?

- Limit the quantity of data collected to the necessary minimum, e.g. ask only whether employees have been in areas at risk of coronavirus or had contact with people who have been in such areas (to determine the legitimacy of instructing them to work remotely pursuant to the Special Act), not about all possible areas in which they have stayed or to which they have travelled.

Please contact us if you need detailed advice on applying particular solutions.

We will post regular updates and new information on DZP's website.

We are at your disposal



Bogusław Kapton

Partner | Head of Labour and Social Security Law Practice

E: Boguslaw.Kaplon@dzp.pl



Agata Mierzwa

Partner | Labour and Social Security Law Practice

E: Agata.Mierzwa@dzp.pl