

Act of March 2, 2020 on specific solutions related to the prevention and counteracting of COVID-19 and other infectious diseases and crisis situations caused by them



The threat associated with coronavirus (SARS-CoV-2) has resulted in the development of a number of solutions to reduce its spread. They were included primarily in the Act on specific solutions related to the prevention, counteracting and eradication of COVID-19.

Due to the risks associated with COVID-19 disease, the Arena Group provides the highest and uninterrupted quality of tax, legal and accounting consultancy services thanks to the implemented remote work program while maintaining adequate security and communication infrastructure. If you need all information related to legal and tax issues in connection with the potential threat related to COVID-19 and your business, our team is fully available.

*Arena Advisory Team*

## Changes for employees and employers

The employer may instruct the employee employed under a contract of employment to carry out work remotely for a certain period of time e.g. from home.



In what form will employer entrust the employee with remote work – verbally or in writing?

The Act does not indicate the form of remote work orders. Consequently, it should be considered that such instructions may be given in any form, including orally. In the interest of both parties to the work relationship (employee and employer) it would be advisable to confirm the fact of ordering remote work (e.g. letter addressed to the employee, business email).



For how long can remote work be entrusted?

The Act does not specify a maximum period for performing remote work. The decision in this regard belongs to the employer – it may be a fixed period, however justified by counteracting COVID-19. At the same time, it should be noted that Article 3 of the Act will expire in 180 days after the Act enters into force. Therefore, it seems that the time for which the employer may instruct the employee to work remotely cannot go beyond that period mentioned above.



Can the originally specified period of providing remote work be shortened or extended?

The Act does not contain any restrictions in this respect, therefore it should be recognized that it is permissible to both shorten and extend the period of rendering remote work for a specified period and justified by countering COVID-19.



Can an employee question the remote work order?

It is the employee's responsibility to follow their supervisor's instruction regarding work, provided that they do not conflict with the law or an employment contract (art. 100 § 1 Labour Code). This also applies to remote work order.



Does the refusal to provide remote work constitute grounds for bringing the employee for imposing penalties on the employee (order penalty)?

Refusal to comply with the employer's order, unless it is contrary to the law or employment contract, may result in the imposition of a procedural penalty on the employee. Pursuant to Article 108 § 1 of the Labour Code, the employer may apply a warning or reprimand for the employee's failure to comply with the established organization and work order, as well as health and safety regulations.



Can remote work be entrusted regardless of housing and family conditions? What if, in the place of residence, in the opinion of the employee, work cannot be performed due to the conditions and relationship prevailing at home?

The provisions of the Act do not refer to the housing or family conditions of an employee with a remote work order. However, if the employee reports the inability to perform work in the place of residence, the employer should assign the employee another place of remote work.



Does the remote work command have to provide a justification?

The Act does not provide for an obligation to justify a remote work order. However, it states that the employer may recommend the employee remote work only to counteract COVID-19. By recommending an employee to work remotely, the employer should act for the above purpose.



Are there specific circumstances (e.g. illness in the area, region where the employer is based) authorizing the employer to use remote work? Is his conviction and life experience enough?

Within the meaning of art. 2 section 2 of the Act of March 2, 2020 on special solutions related to the prevention, and counteracting of COVID-19, ..."counteracting COVID-19" means all activities related to the control of infection, prevention of spread, prevention and counteracting the effects of the disease. Therefore, the premises for recommending an employee to a remote work are broad and in practice, every employer, even for the sake of prevention, can order employees to work remotely.



Can the employer order remote work elsewhere than at the employee's home?

In accordance with art. 3 of the Act in order to counteract COVID-19, the employer may instruct the employee to perform, for a fixed period, work specified in the employment contract, outside the place of its permanent performance (remote work). Such wording of the provision indicates that the employer may entrust the performance of remote work also in a place other than the employee's home.

## Care allowance

If, due to COVID-19, a nursery, children's club, kindergarten or school is closed, an insured employee who is dismissed from work because of childcare up to the age of 8 years, is entitled to additional care allowance. Such allowance is granted for no more than 14 days and is not included in the 60 days of care allowance that an employee is entitled to in a calendar year.

## Exemptions from public procurement law and construction law

If there is a likelihood of rapid and uncontrolled spread of COVID-19 or if it is required to protect public health, institutions covered by the Public Procurement Law will be able to order goods or services necessary to counteract COVID-19 bypassing these provisions. This means, among others no need to apply statutory rules and procedures.

Design, construction, reconstruction, maintenance and demolition of buildings, including a change in use, if it is related to counteracting COVID-19, may be exempted from the provisions of the Acts:

- Construction Law;
- on spatial planning and development;
- on the protection of monuments and the care of monuments.

## Exclusion of liability of airport and train station managers and carriers

Entities that manage airports, railway stations, air, rail or road carriers have been released under the Act from liability for damages caused in connection with the actions of public authorities aimed at counteracting COVID-19, and in particular for the lack of transport.

## New regulations related to pharmaceutical law and obligations of companies conducting medical activity

The Minister of Health may announce maximum prices for medicinal products, medical devices and foodstuffs for particular nutritional uses.

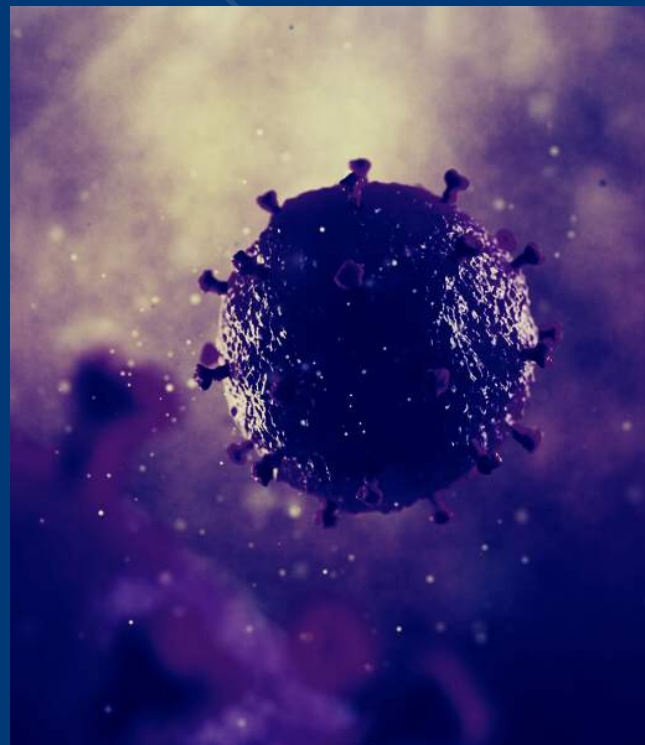
The Chief Sanitary Inspector or a voivodship sanitary inspector acting under his authority may impose:

- to pharmaceutical wholesalers - the obligation to distribute medicinal products, foodstuffs for particular nutritional uses or medical devices,
- on manufacturers, distributors or importers - the obligation to distribute personal protective equipment.

The Minister of Health may announce a list of medicinal products, foodstuffs for particular nutritional uses and medical devices that can be sold by the pharmaceutical wholesaler only to pharmacies, pharmacy outlets, to other pharmaceutical wholesalers and to medicinal plants or medical entities operating on the territory of Poland.

Manufacturers or importers of products included in such list will be able to sell them only to pharmaceutical wholesalers. If they do not comply with this obligation, they will face a penalty of between PLN 10,000 and PLN 5,000,000.

The Minister of Health may impose an obligation in the regulation to monitor and report to the Integrated System for Monitoring the Trade in Medicinal Products of medicinal products, foods for particular nutritional uses and medical devices that are on the market. If such an obligation is imposed, entities that were not previously connected to the integrated system must connect to it within 24 hours and start transferring information.



The Minister of Health will be able to limit the amount of a medicinal product, medical device or foodstuff for particular nutritional use per patient in a situation:

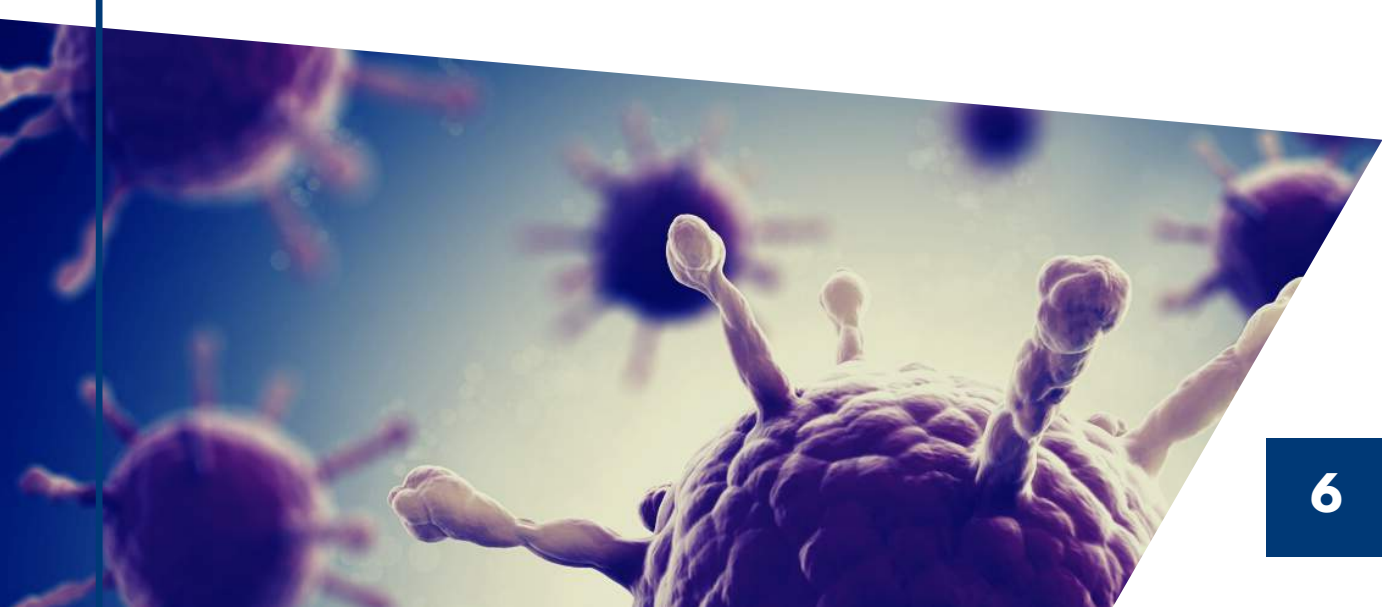
- threat of a lack of availability on the territory of Poland of a medicinal product, food for special nutritional purposes or medical device;
- an emergency situation, an epidemic condition, or if there is a danger of an infection or an infectious disease spreading that may pose a threat to public health.

The Prime Minister, at the request of the Minister of Health, may impose on a health care entity being:

- a capital company in which the sole or majority shareholder or shareholder is the State Treasury or
- an independent public or private health care establishment or
- state budget unit

an obligation to perform a specific task in connection with counteracting COVID-19.

In particular, it may be the obligation to transfer medicinal products, medical devices, foodstuffs for particular nutritional uses as well as medical apparatus and equipment to ensure the provision of health services at another therapeutic entity. If such an obligation is imposed, public authorities shall provide funds to cover the expenses related to its implementation. In the event of damage suffered by a therapeutic entity in the performance of the imposed task, the Minister of Health is obliged to repair it



## Tourist and hotel activities

If in connection with the threat of COVID-19 epidemic:

- the traveller withdraws from the contract (he does not have to pay for withdrawal and retains the option of requesting reimbursement of incurred payments, but without additional compensation or redress) or
- the tour operator terminates the contract for participation in the tourist event and will make a full refund of payments made by the traveller for the tourist event, but without additional compensation or compensation

it is the tourist entrepreneur who will be entitled to a refund of payments transferred to the Tourist Guarantee Fund.

The tourist entrepreneur must submit a request for reimbursement within 60 days of withdrawal from the contract or termination of the contract. The application must include the amount to be refunded and include:

- documents confirming withdrawal or termination;
- the tour operator's statement regarding the date on which the withdrawal or termination took effect
- correction of the declaration initially submitted to the Tourist Guarantee Fund together with the list of contracts from which the components to be returned arise.



## Public authority - instructions given to entrepreneurs by public authorities

The Prime Minister, at the request of the voivode, after informing the Minister of Development, may issue - by administrative decision - instructions to entrepreneurs. Such orders do not require justification and are to be immediately executed - upon delivery or announcement. They can also be issued orally, by phone and via electronic means of communication (e.g. by e-mail).

The competent voivode will sign the contract with the entrepreneur who receives such an order, and the state budget will pay for its implementation. Important! Preparation for the implementation of tasks specified in the contract (e.g. planning works) will be financed from the entrepreneur's own funds.



If the entrepreneur refuses to conclude the contract, the order issued by way of administrative decision will be subject to immediate execution.



## Introduction of zones associated with the occurrence of the COVID-19 epidemic

Pursuant to the assumptions of the Act, in the event of an epidemic or emergency situation of a nature and in sizes exceeding the capabilities of the relevant government administration bodies and local government bodies, the Council of Ministers will be able to determine, by regulation, the area at risk along with an indication of the type of zone in which there was an epidemic or emergency situation, and the type of solutions used in this area.

The content of the regulation may establish temporary restrictions, obligations and orders referred to in art. 46 section 4 of the Act on preventing and counteracting infections and infectious diseases in humans, temporarily regulating the supply of certain types of articles, a ban on leaving quarantine, a ban on leaving zero zone by sick and suspected persons.



- Zero zone - the area in which the epidemic occurred, located directly around the virus outbreak, subject to restrictions, in particular bans, orders and control measures;
- Buffer zone - the area around the zero zone, subject to restrictions, in particular bans or orders regarding the movement of people;
- Danger zone - an area where there is a risk of an epidemic;
- Area at risk - area of one or several territorial division units of the country or area defined in a manner other than by reference to the territorial division units of the country;
- Quarantine site - a separate building for temporary stay of sick or suspected persons in which quarantine is carried out.





“*We get things done*”



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