

**Dear Readers,**

Our latest issue of *HR Perspectives* focuses entirely on the new draft legislation on remote working.

We present it in a Q&A formula - we answer the most frequently asked questions about the functioning of remote and hybrid work in the form proposed by the new regulations, including:

- whether and when is it necessary to cover costs related to remote working?
- when does remote working require consultation with trade unions and when can it be introduced at the employer's request?
- what about health and safety obligations? How is the responsibility divided between employers and employees?

and much more.

We encourage you to take a close look at your remote working internal regulations and prepare for the forthcoming regulatory changes.

**Have a pleasant read!**

**Robert Stępień**  
**Bartosz Tomanek**

**AMENDED REGULATIONS ON REMOTE WORKING****- QUESTIONS AND ANSWERS****REMOTE WORKING - GENERAL ISSUES****Will remote working have to take place at the employee's home?**

Not necessarily. The employee and the employer can also agree on a different remote working location. However, it is necessary to make arrangements for this.

**When can an employer request remote working?**

The employer will be able to ask you to work remotely during:

- (1) a state of emergency,
- (2) a state of an epidemic threat, or
- (3) a state of an epidemic.

and for three months following their termination.

Moreover, when it is not possible to ensure safe and hygienic conditions in the workplace for reasons beyond the employer's control, the employer, in compliance with their duty to ensure such working conditions, can unilaterally request employees to work remotely.

**What if an employee states that they do not have suitable conditions to work remotely?**

It is only possible to request an employee to work remotely if they first confirm that they have the necessary premises and technical conditions to work remotely. The declaration can be made on paper or electronically.

**Will the rules for remote work be set "collectively" or individually?**

In principle, the rules for remote working will be established at company level through a consultation process with trade unions or, if there are none, with the employee's representatives. If an agreement with the unions is not reached within 30 days, the employer can issue the regulations.

However, even if no regulations are established at company level, remote working can be carried out based on individual arrangements.

### COSTS OF REMOTE WORKING

#### **What costs related to remote working will an employer have to reimburse to an employee?**

The obligation to reimburse costs or pay a lump sum on account of costs related to remote working will apply to the costs of the installation, servicing, use and maintenance of work tools necessary to carry out remote working, the costs of electricity and the necessary access to telecommunications networks, as well as other costs, provided that the reimbursement of such costs has been stipulated in the company or individual agreement, in the remote work regulations or the remote work request issued by the employer.

#### **Will a lump sum/reimbursement of remote working expenses incurred by an employee be taxed?**

No, the legislation excludes this income from the tax base.

### CONTROL AND SECURITY DURING REMOTE WORKING

#### **Can an employer inspect whether an employee is working and how they are carrying out the remote working?**

Yes. Such an inspection may be carried out at the designated place of remote working and during the hours when the remote work is carried out in compliance with the established rules on remote working. Under no circumstances can the employer's inspection infringe on the employee's and other people's right to privacy.

#### **Is it necessary to make a risk assessment of remote working conditions?**

Yes, an employer must make a risk assessment of remote working conditions.

#### **Does the risk assessment need to be completed individually for each employee or workstation?**

No, an employer can make a universal risk assessment for each group of remote workers.

#### **Does an employer have to organise the remote worker's workplace in such a way that it complies with Occupational Health and Safety (OHS) legislation and rules, for example, by providing them with a suitable desk, chair or lighting?**

No, the employer's OHS obligations are limited. The employer is not obliged, for example, to organise the employee's workplace in compliance with OHS rules, to ensure the safe

and hygienic condition of the premises where the remote work is carried out or to provide personal hygiene products.

It will be the employee's responsibility to organise the remote workstation in compliance with OHS requirements. Furthermore, employees will be allowed to work remotely only if they submit a statement confirming safe and hygienic working conditions at their remote workstation.

### **Who is responsible for the proper organisation of the remote workstation?**

It is an employee who has to organise the remote workstation in compliance with the requirements of ergonomics.

## **WHAT ABOUT TELEWORKERS, HYBRID WORK AND HOME OFFICE?**

### **Does the new legislation provide for occasional remote working (previously referred to as “home office”)?**

Yes, an employee will be entitled to request up to 12 days of occasional remote work per year. The employer should comply with such a request whenever possible, but it is not obligatory.

In the case of occasional remote work, it is not necessary to make any additional arrangements regarding the rules of its performance. Moreover, the employee is not entitled to any reimbursement/lump sum for the costs incurred.

### **What next for teleworking employees?**

The existing conditions of teleworking will remain unchanged for six months after the amendments to the Labour Code take effect. After that, they will have to be replaced in compliance with the new regulations on remote working.

### **Do the new regulations provide for hybrid work, carried out partly from the office and partly from another location?**

Yes, the new regulations provide that work can be carried out remotely in whole or in part. This means that if the employer and employees agree on this, the hybrid work model can be used freely.

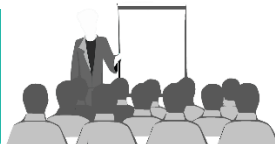
## ENTRY INTO FORCE OF THE NEW RULES

### When will the new rules on remote working become effective?

After three months from the termination of a state of an epidemic or epidemic threat declared in connection with SARS-CoV-2. The new regulations will replace the existing arrangements set out in the COVID regulations.

Regardless of when this will actually happen, it is worth preparing in advance to introduce the changes resulting from the planned regulations.

Legal status as of 20/05/2021.



### Webinar: Amendment to the regulations on remote work - a revolution in the Polish Labour Code

Date: 10 June 2021, 11:00-12:00 a.m., online.

Panellists: Sławomir Paruch, attorney at law; Łukasz Chruściel, attorney at law; Robert Stępień, attorney at law and Bartosz Tomanek, attorney at law.

Please apply here: [perspektywyhr@pcslegal.pl](mailto:perspektywyhr@pcslegal.pl) | More details: [here](#).

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### Webinar: Unintentional disclosure of whistleblower data - whistleblowing and GDPR

We would like to invite you to the forthcoming HR Signal webinar.

Date: 16 June 2021, 11:00 - 12:00 a.m., online.

Panellists: Karolina Kanclerz, attorney at law, and Paweł Sych, attorney at law.

Please apply here: [perspektywyhr@pcslegal.pl](mailto:perspektywyhr@pcslegal.pl) | More details: [here](#).

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### Webinar: Trade unions in the workplace - formal requirements

We would like to invite you to a webinar which is part of the "Relationship with trade unions" series.

Date: 17 June 2021, 11:00 - 11:45 a.m., online.

Panellists: Sławomir Paruch, attorney-at-law; Robert Stępień, attorney-at-law.

Please apply here: [perspektywyhr@pcslegal.pl](mailto:perspektywyhr@pcslegal.pl) | More: [here](#).



## Workplace vaccinations - a guide

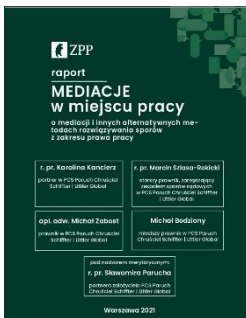
We encourage you to read our guide "Szczepienia w zakładach pracy" (Workplace vaccinations), which contains essential information about the organisation of vaccinations.

The guide discusses the practical aspects of organising workplace vaccinations, including technical, formal and financial issues. It also addresses the question of which employers and individuals can use the workplace vaccination program.

Authors: Sławomir Paruch, attorney at law; Robert Stępień, attorney at law; Paweł Sych, attorney at law; Magdalena Profic, Julita Kołodziejska, Karolina Rogatko, Oskar Kwiatkowski, Patryk Kozieł and Kamil Nazimek.

The guide was published together with Dziennik Gazeta Prawna.

The guide is available [here](#).



## Report: Workplace mediation

We would like to share with you a report prepared as a result of the joint project of PCS Paruch Chruściel Schiffter | Littler Global and the Union of Employers, called "Mediation between employers and employees as a way to resolve conflicts during the COVID-19 pandemic".

The COVID-19 pandemic and all the problems it brought directly affect the situation of both employers and employees. Conflicts arising in the workplace can be effectively resolved using alternative dispute resolution methods, including mediation.

The report discusses the following issues:

- alternative dispute resolution (ADR) methods;
- mediation as one of the ADR methods;
- labour law disputes;
- individual mediation - initiation procedure and course of action;
- mediation in collective disputes;
- things to pay attention to when carrying out mediation - practical tips for employers and employees.

The report is available: [here](#).