



REVOCATION OF THE EPIDEMIC STATE

The Ministry of Health intends to revoke the epidemic state on May 16, 2022. Draft regulation regarding this matter was published on government websites on May 9, 2022.

This information is relevant in terms of the "Anti-Crisis Shield" provisions application. Many of them will no longer be in force when the state of the epidemic or epidemic threat is lifted or after the expiry of the period specified in individual provisions (e.g., 3 months after their lifting).

According to the announcement, the epidemic state will be replaced by the state of epidemic threat at least until September 2022. It should be treated as an alert to employers that the "Anti-Crisis Shield" provisions may only be applicable until the end of the year.

What changes can we expect after the state of epidemic and epidemic threat are lifted?

I. Remote work

The basic solution that had already been introduced in the first version of "Anti-Crisis Shield" legislation is the possibility to request the employees to perform work remotely. As workers become more acclimated to the remote office environment, remote working is something that employees expect to be offered. This trend was noticed by the legislator, who undertook certain steps to permanently introduce remote work provisions into the Labour Code. Although these changes have been worked on since the beginning of the pandemic, the date of implementation is not yet known.

One of the conditions under which remote work can be requested by an employer is the state of epidemic or epidemic threat. After 3 months of their revocation, the employer will not be able to request employees to work remotely based on the existing provisions. The provisions specifying the conditions for performing such work will not be applicable either. It is worth considering regulating remote work under internal regulations.

II. Employee medical examination

Currently, the obligation to carry out periodic health examinations (including for certain groups of employees performing work in especially dangerous conditions) is suspended. When the state of epidemic threat is revoked and not subsequently replaced by the epidemic state or the epidemic state is also lifted, an employer and an employee are obliged to carry out periodic medical check-ups within 180 days from the revocation of the given state.



Revocation of the above-mentioned states will affect initial and periodical examination medical certificates issued by doctors other than those authorized to carry out these examinations. Such medical certificates will expire 180 days from the date of the state of epidemic threat revocation, provided that the epidemic state is not subsequently announced, or from the date when the epidemic state is lifted.

Furthermore, the obligation to conduct pre-employment medical examinations for administrative and office positions is reintroduced. Currently, if such an employee has a valid certificate allowing them to work, and the employer decides that the description of working conditions and requirements identified in the certificate match the conditions and requirements for the new job position, such an employee does not have to be referred to a new medical examination.

III. Medical examination of employees in specific industries

The obligation to perform medical examinations will also be reinstated for some industries regulated by specific legislation.

For example, drivers covered by the provisions of the Road Transport Act will be subject to:

- medical re-examination to determine whether any health reasons would prevent such a person from working as a driver,
- psychological evaluation for the same purpose,
- periodic training.

Examinations and training should be completed within 180 days of the revocation of the state of epidemic or the epidemic threat.

IV. Validity of medical certificates

The “Anti-Crisis Shield” legislation extends the validity of medical certificates from preventive medical examinations, psychological examinations, or other tests required by law to perform the work that expired after March 7, 2020.

Depending on the type of examination, the validity of the medical certificate will expire after:

- 180 days – pre-employment, return-to-work, and periodic medical examinations
- 60 days – psychological tests or tests other than pre-employment, return-to-work, and periodic medical examinations required by law from the date of revocation of the state of epidemic or epidemic threat.



V. Health and Safety Training

Once the state of the epidemic and the epidemic threat are lifted, it will no longer be possible to conduct health and safety training entirely online.

It will be necessary to conduct the "outstanding" periodic health and safety training. The "Anti-Crisis Shield" Act sets out that if the term of periodic training falls:

- within the period of the state of epidemic or the epidemic threat, or;
- within the period of 30 days from the date when either the state of the epidemic threat is lifted, provided that the state of epidemic is not subsequently announced, or the state of the epidemic is lifted,
- then the deadline for carrying out the training would be extended to 60 days from the date when either the state of epidemic threat is lifted, provided that the state of epidemic is not subsequently announced, or the state of the epidemic is lifted.

VI. Severance pay, compensation, and other benefits related to the employment contract termination

The revocation of the state of the epidemic and the epidemic threat will make it possible to limit the amount of severance pay, compensation, or other cash benefits paid by an employer to an employee in connection with the termination of the employment contract or a civil law contract.

Such a solution is currently used by the employers who experience financial loss or a significant strain on the remuneration fund - within the meaning of the provisions of the "Anti-Crisis Shield" Act. Based on these rules, employers can reduce the amount of cash benefits payable due to, for example, collective redundancies, up to the amount of 10 minimum wages.

VII. Company Social Fund (ZFSS)

Employers experiencing the above-mentioned financial loss or a significant strain on the remuneration fund can also temporarily refrain from:

- establishing or running a company social fund,
- making a basic contribution to a company social fund,
- paying holiday benefits.



In such a situation, the regulations also provided for an automatic suspension of internal regulations increasing the amount of the contribution to the Social Fund, therefore the employers were only required to calculate and remit the contribution in the amount indicated in the provisions of the Company Social Fund Act.

If the employer uses these solutions, revoking the state of the epidemic and the epidemic threat will result in the restoration of the previous Company Social Fund rules.

VIII. Non-Competition Clause

Until the state of the epidemic and the epidemic threat are lifted, employers can terminate the employee's non-competition agreement after the termination of the employment relationship upon giving a 7-day notice period.

IX. Overdue annual leave

The "Anti-Crisis Shield" Act provides that during the state of the epidemic and the epidemic threat, the employers may request an employee to use up overdue leave (up to 30 days) within the time limit specified by the employer without obtaining the employee's consent.

This provision was in line with a practice that had so far been used by employers and accepted by courts. Therefore, we believe that even if it was repealed, the employers will still be able to ask the employee to use the overdue annual leave.

X. Certificates of disability, degree of disability, and unfitness for work

The revocation of the state of the epidemic and the epidemic threat will be of significant importance to people with disabilities. The "Anti-Crisis Shield" Act extended the validity of the disability and disability degree certificates which:

- expired up to 90 days before the "Anti-crisis shield" provisions came into force, provided that the application for a new decision was submitted within this period,
- expired after the date of entry into force of the "Anti-Crisis Shield" Act.



Such decisions remain valid up to 60 days from the date of revocation of the state of the epidemic and the epidemic threat. This extension, however, does not apply if a new disability certificate or a decision concerning a disability degree has been issued before the end of the above-mentioned period.

Apart from the above-mentioned decision, the “Anti-Crisis Shield” Act also extends the validity of decisions issued for a specified period, namely decisions regarding:

- partial unfitness for work,
- complete unfitness for work,
- complete unfitness for work and independent living,
- inability to live independently.

We would welcome the opportunity to support you in implementing necessary changes within your businesses. Please feel free to contact us.



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