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TOPICS

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DRAFT ACT ON PAY TRANSPARENCY PUBLISHED

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The draft act provides, among other things, that:

1. **Job evaluation**, every employer must evaluate the positions in their establishment taking into account at least four mandatory criteria (skills, effort, responsibility and working conditions), or face a fine.
2. The **criteria and sub-criteria** used to determine the value of work must be agreed with trade unions – if present. The categorisation of employees (performing work of equal value) must also be consulted with trade unions. Where there are no trade unions present, these matters are determined independently by the employer.
3. **Differentiation of pay** for employees performing the same work, or work of equal value, will remain permissible, provided it is justified by objective, gender-neutral criteria, such as achievements and skills.
4. An employee will have the right to request information on their **individual pay level** and on **average pay levels**, broken down by gender, for the category of employees performing the same work, or work of equal value. The employer will be obliged to provide a response within 30 days. Once a year (by 31 March), the employer must remind employees of this right.
5. Employers will be required to make certain information available to employees and candidates in a manner **accessible to persons with disabilities**.
6. All employers with at least 100 employees (including temporary agency workers) will be obliged to **calculate and report any gender pay gap**.
7. The obligation to calculate the pay gap will be **annual**, but the frequency of submitting reports to the public authority will depend on headcount (more than 250 employees – annually; 100 to 249 employees – every three years).
8. By **31 March** each year, employers with at least 100 employees will be required to inform employees and trade unions about the pay gap – broken down by categories – or face a fine.
9. A **pay gap of at least 5%** in any employee category that is not justified by objective, gender-neutral criteria will trigger an obligation to take remedial action. This will require cooperation with trade unions, and in certain cases the employer will also be required to carry out a joint pay assessment.
10. The **limitation period** for claims relating to a breach of the principle of equal treatment will be interrupted, among other things, by a relevant complaint submitted to the employer.
11. The **single source principle**, allowing comparisons between employees of different employers, applies where pay conditions are determined jointly with the employer, or outside the employer, for more than one enterprise, in particular through binding regulations within a capital group.
12. The catalogue of **offences under the Labour Code** will be expanded. After the act enters into force (on 7 June 2026), a failure to comply with new recruitment-related obligations, which will start to apply from 24 December 2025, will constitute an offence (in particular, a failure to provide candidates with information on remuneration, or the use of job titles that are not gender-neutral in job advertisements).
13. Breaching a wide range of obligations under the act will be punishable by a **fine of up to PLN 50,000**. This includes, for example, a failure to carry out a job evaluation, a failure to prepare a gender pay gap report, or a failure to inform employees of the criteria used to determine remuneration, its levels and increases.

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REMOTE WORK FROM ABROAD DOES NOT ALWAYS CREATE A PERMANENT ESTABLISHMENT

Katarzyna Serwińska
Tax advisor

The place where remote work is performed only constitutes a permanent establishment ("PE") of the employer if it is of a fixed nature and is actually used to perform the enterprise's business. As a rule, if an employee works from home in another country for less than 50% of their working time in any 12-month period, no PE arises.

If, however, the 50% threshold is reached or exceeded, then it is necessary to examine whether there is an economic reason for the employee's presence in the other country, such as servicing the employer's local clients, managing suppliers, performing activities that require on-site contact, or working in a time zone that facilitates the provision of services to specific clients.

The mere fact that an employee is abroad for personal reasons, or on incidental visits to foreign clients, does not result in the creation of a PE for the employer in that country.

This follows from amendments to the Commentary to the OECD Model Tax Convention, published on 19 November 2025. For the first time, this now addresses in detail cross-border remote work and its impact on the creation of a PE in the country where the work is performed. It should be remembered, however, that although the Commentary is widely recognised as guidance for the interpretation and application of double taxation treaties, it is not a source of binding law.

It is also worth noting that the creation of a PE in another country may entail corporate income tax (CIT) obligations for the employer in that country, including the need to attribute income to the PE, pay tax and file local tax returns.

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"INCIDENTAL WORK" AND WORK FOR ANOTHER EMPLOYER WHILE ON SICK LEAVE COMING SOON

Amendments to the regulations on sick leave (L4) are now at the final stage of the legislative process (the relevant bill has returned to the Sejm with minor amendments from the Senate).

Currently, an employee who is caught working while on sick leave, or who uses sick leave in a manner inconsistent with its purpose, loses the right to sickness benefit for the entire period of the sick leave.
The new rules will allow **"incidental professional activity"**, i.e. activity that does not interfere with the recovery process, is sporadic and must be undertaken due to important circumstances. The bill specifies that an important circumstance cannot be an instruction from the employer. For example, a person responsible for a key project falls ill before its completion and, while on sick leave, hands over their tasks and cancels meetings scheduled for the coming days.

In addition, under the new provisions, it will be possible to **work for one employer while on sick leave from another employer**. The type of work must not conflict with the purpose of the sick leave or the sick person's state of health. For example, a receptionist whose duties include preparing coffee and tea for guests can be on sick leave due to a broken leg, but this not prevent her from performing work as a graphic designer for another employer.

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CHANGES TO THE INITIAL HEALTH AND SAFETY TRAINING CARD – ELECTRONIC CONFIRMATION OF TRAINING

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In light of changes introduced by the European Resuscitation Council (ERC) to first aid guidelines, all workplace first aid procedures and OHS training programmes, both initial and periodic, must now be updated to reflect the new rules. This is intended to improve safety and the effectiveness of emergency response in the workplace.

Under the updated guidelines:

1. the role of the emergency dispatcher has been emphasised – contacting them is now recommended already at the stage of identifying a loss of consciousness, and not only after checking breathing or later;
2. the first aid section has been expanded – the ABC rule has been replaced with ABCDE: Airway, Breathing, Circulation, Disability, Exposure;
3. the Basic Life Support (BLS) algorithm has been unified for all age groups – the 30 compressions to 2 breaths ratio is now to be applied to children as well as adults;
4. guidance now explicitly permits administering certain medicines as part of first aid, e.g. for asthma, epilepsy, diabetes or anaphylactic shock.

NEWS


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