



OHS Service in Poland

The Labour Code requires that employers ensure safe and hygienic conditions to their employees (Art. 94 LC) as well as imposing an obligation upon employees to comply with the same. Compliance with these regulations is enforced by an in-house OHS Service or third-party specialists. What is the market for OHS services in Poland?

According to a CIOP-PIB report, 70% of OHS Service members are aged between 30 and 49 with every fourth member being female.

In-house OHS Service and third-party OHS specialists differ in terms of the nature of their respective duties. The former fulfil work safety-related duties within the company, including: keeping documentation, investigating accidents at work and cooperating with other staff, whereas the latter frequently offer advisory, training and auditing functions.

A study carried out by CIOP-PIB in 2018 shows that 49% of employers (with 80 surveyed) outsourced certain OHS functions from third-party specialists despite employing full-time OHS Service members.

This year's survey of 250 OHS Service members from companies employing more than 100 people has shown that 36% of surveyed companies have used the services of third-party OHS officers. The demand is significantly higher among companies employing between 100 and 199 people (60%) compared to other groups defined according to employment levels.



The job market in a (post)pandemic reality

Forecasting the job market situation in 2021 is not easy as even at the present pandemic state multiple variables have emerged affecting business owners' behaviour and decisions. A rapid surge in unemployment was forecasted, yet it did not occur all across Europe with various kinds of anti-crisis shields being employed and some employers deciding to maintain existing employment levels expecting the crisis to end soon.

In October 2020, the registered employment in Poland stood at 6.1%, which amounted to approx. 1 million of the unemployed.

- The data for the 2nd wave is not in yet, but I am convinced that the subsequent pandemic waves will only reinforce the trend. Personally, I expect layoffs if the situation on the job market doesn't improve rapidly – writes Adam Mrozowicki, Associate Professor at the Institute of Sociology of Wrocław University, in his text entitled "On the job market, employees' economic awareness and strategies in 2021".

According to the GUS (Main Statistical Office) data, jobs have been lost during the pandemic primarily by those working on civil-law contracts and the self-employed working for a single employer, with a 32% year-on-year drop in the number of those working on mandate contracts in Q2 2020 and 24.6% fall in the number of self-employed working for a single client.

Professor Adam Mrozowicki adds that he is convinced that precarious employment levels will bounce back in post-pandemic conditions.



GDPR in HR and payroll documentation

GDPR-related requirements apply to all employers processing the personal data of their employees, clients or contractors. Multiple questions arise and doubts still surround issues relating to video surveillance, recruitment and third parties involved in hiring an employee.

The scope of employee records to be kept is specified by an applicable implementing regulation concerning employment-related matters and employee record-keeping. In this process, employee personal data are processed, which means that HR, Accounting and Payroll departments are required to comply with the GDPR.

Art. 6 (1) (b) of the GDPR, data processing is necessary for the performance of a contract or for certain actions to be taken prior to entering into a contract at the request of the data subject. Moreover, under Art. 6 (1) (c), processing is required in order to comply with the legal obligation binding upon the data controller.

However, the controller can only process such data upon written consent to processing from the data subject. Art. 6 (1) (a) of the GDPR states that “the data subject has given consent to the processing of his or her personal data for one or more specific purposes”.



Coal-burning stove replacement not a priority

The Polish Smog Alert (PAS) has published a report showing the pace of stove replacement in cities on the so-called 'WHO list' – i.e. the smoggiest cities in Europe. The data is less than satisfactory as the replacement rate is practically zero.

The data for the report comes from the responses submitted to the PAS by local councils and the National Environmental and Water Management Fund (NFOŚiGW) for 2019. They show that anti-smog activities are not among the priorities for either the largest cities or the most polluted communities.

According to the report, among Voivodship Capitals – the greatest number of furnaces have been replaced in Cracow – 4188, Wrocław taking the second place with 1442 furnaces and Katowice taking the third place with 1213. However, in two of those cities a large number of furnaces remain to be liquidated - 18,669 and approx. 20,000 respectively.

At the bottom of the list is Zielona Góra, where a mere 78 furnaces were replaced last year, Białystok - 62 and Gorzów Wielkopolski – 41.

Only 20 cities from the WHO list which are the most polluted have counted their 'soot-spewing stoves'. At the top of this list are: Kraków – 4188 replaced units, Gliwice – 2090, Katowice – 1213, Dąbrowa Górnicza – 824 and Sosnowiec – 695. At the bottom are Rawa Mazowiecka – 3, Opoczno – 2 and Brzeziny – 2.



Employment law and working hours in 2021

The Government has announced amendments to employment law in the New Year. The amendments are to affect several chapters of the Labour Code, such as those concerning working hours, alcohol testing, leave and remote work.

The changes to the Labour Code have been heralded for many months. Some of them have been forced by practice, e.g. employee breath tests and provisions on remote work, while others stem from EU law.

Higher wages. The minimum wage is to increase by PLN 142 in 2021 as compared to 2020. This means that it will reach PLN 2,800 pre-tax, which amounts to PLN 2,062 following tax deductions. A higher minimum wage is required by EU guidelines.

Longer holidays. According to an EU's decision, all Member States are to change their minimum leave entitlements. Two months – this is going to be the length of parental leave for fathers.

“Employment law and working hours in 2021” training. In response to the new challenges and ever-increasing doubts, SEKA S. A. has developed a dedicated training course covering practical issues involved in employment law implementation.



Employee Benefit Fund (ZFŚS) and GDPR

The Act on employee benefit funds (Dz. U. 2020. 1070 of 22. 06. 2020) imposes an obligation to create an Employee Benefit Fund and lays down the rules governing it. The Fund is administered by the employer. During the process, employees' personal data are processed, thus the GDPR should be observed.

Under Art. 1 (1) of the act on employee benefit funds, the funds collected are used for financing eligible employees' social needs, company social facilities and creating crèches, kid clubs, kindergartens and other pre-school care forms. The employer cannot use these funds freely – they can only be used for financing social activities within the meaning of the above-mentioned act.

The obligation to create a Fund applies to employers employing, as at 1 January of the year in question, a minimum of 50 employees in full-time equivalents and those operating as state-budget or local-government budget-funded establishments regardless of the number of employees.

On the other hand, those employing a minimum of 20 and fewer than 50 employees in full-time equivalents will be required to create a Fund **if a trade union active in the organisation requests so.**

In relation to the creation of an Employee Benefit Fund, employees' personal data are processed, which means the GDPR will have to be complied with as well.



Information and data security in remote work

Moving to work outside the regular work premises does not result in the employees no longer having to comply with employee obligations or the rules and regulations in operation in their organisation.

This means that employees using their own tools to perform their work duties are required to respect and protect confidential information, other legally privileged information, including trade secrets, personal data and any information whose disclosure could cause harm to the employer.

The obligation to comply with data protection regulations, including the GDPR, applies to employers and employees alike.

An employer should: provide employees with company equipment, ensure VPN logging, install up-to-date antivirus software with firewall, activate a backup function and provide an encrypted hard disk for data storage.

An employee should: lock the computer while away from it; set an automatic screen saver; only connect to private and home networks avoiding public networks, such as train stations or shopping centres; protect printed documents against third-party access, flooding, destruction, loss or theft; destroy the documents properly, e.g. using a shredder rather than dropping into the bin; dedicate a place for filing printed documents.



New requirements for waste storage

On 1 January 2021, a new regulation came into force of the Minister of Climate of 11 September 2020 on the detailed requirements for waste storage. It also applies to waste producers.

The regulation sets out detailed requirements for waste storage. It covers initial storage of waste generated by the producer, temporary storage of waste by waste collectors and waste storage by recycling companies, as well as the storage of infectious medical waste and infectious veterinarian waste (§ 1 of the Regulation).

Such entities should store the waste in packaging, containers, tanks, sacks, heaps or piles (depending on the physical and chemical properties of the waste in question). The waste should be stored in a manner preventing it from spreading outside the designated area (including outside the packaging or onto neighbouring land plots). Hazardous waste should be stored in such a way as to minimise the impact of atmospheric conditions (e.g. in tight containers or using leakage collection systems).

The producers storing waste prior to the Regulation entering into force will have 12 months to adapt to the new regulations – the deadline is 1 January 2022.



OHS in remote work

Remote work is typically done at one's home where the rooms are often not suitable in terms of ergonomics or OHS regulations in operation within the organisation. Nevertheless, each employee should ensure himself/herself that work is done in a safe and hygienic manner.

As well as office duties, remote work can also entail manufacturing or other tangible services if the employer has provided the necessary tools. Remote work, despite being performed outside normal work premises, is still a type of work.

The applicable regulations do not contain detailed provisions for OHS while working remotely, but one can, and even should, take oneself care of the following:

- Separate a working space – separate place where work can be performed,
- Properly prepare the workplace – proper desk and chair as well as adequate lighting;
- Ensure safety for oneself and one's family members – protect computers, smartphones and documentation, if any;
- Take regular breaks after each hour of work and those to which one is entitled under the applicable employment regulations.

Moreover, employees may be required to keep records of the work done where their employer requests so.



Adjusting your company to the online world

One could risk saying that the training sector is one of those most affected by the pandemic. Prior to the pandemic most training had been delivered in a traditional way. Therefore, firms are facing a serious challenge: introducing an entirely manner of teaching by means of modern technologies and the Internet. What necessary steps must be taken for a firm to avoid halting during a crisis?

Online training is currently the only way to impart the knowledge necessary for employees to develop their competences or to attend statutory OHS training. Technology and equipment-mediated, so-called contactless, meetings must be sufficiently engaging. Hence, an entirely new form of education should be developed that will be interesting and encouraging, but above all - informative.

All kinds of distractions, such as: poor light, figures and shapes on the wall, poor message quality – they all adversely affect how the message is received. The trainee could get discouraged soon and the firm lose a client. For video recording purposes, a separate room should be dedicated with necessary and proven equipment, such as:

- greenscreen (e.g. 3m x 2.5m)
- application allowing the use of greenscreen,
- video processing application,
- lamps (three),
- camera tripod and a video camera,
- (directional) microphone,
- and an account with one of the available platforms.