

Newsletter HR

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New tools for controlling sick leaves by the Social Insurance Institution

Effective from 5 October 2021, the Social Insurance Institution ("ZUS") gained new powers to control the use of sick leaves to prevent abuse by the insured. When referring the insured to a medical check-up, ZUS will be able to send the insured a notice of the date of such check-up not only in the traditional way, but also:

- to the address for electronic delivery entered in the database of electronic addresses and to the information profile in the ZUS teleinformation system;
- by a designated operator using the so-called public hybrid service, as well as by a postal operator;
- by ZUS employees or other authorized persons or through the employer.

Depending on the form selected, ZUS will send the notice accordingly:

- in writing in electronic form;
- in writing in paper form;
- in writing in paper form, by telephone, or by electronic communication means, including to the address for electronic delivery; notice may be served by telephone if the insured's telephone number is known to the entity making service.

The written notice in paper form shall be sent to the insured's address of residence during the period of temporary incapacity for work as indicated on the medical certificate.

Trade union representative's access to personal data included in the application for Company Social Benefit Fund ("SBF") benefits

The Office for Personal Data Protection ("UODO") confirmed in its latest position (published on 3 November 2021) that a trade union representative appointed by the trade union to participate in the opinion on the granting of individual benefits from the SBF may, and indeed should, have access to personal data contained in applications for the granting of such benefits (this also applies to applications submitted by pensioners - former employees entitled to participate in the SBF).

However, the above position refers to a specific situation in which the discussed entitlement results from the provisions of the SBF regulations which authorize the trade union to appoint such a representative from among its members. It is worth pointing out at the same time that in accordance with the prior position of UODO, the discussed entitlement is not vested in any other representatives of the trade union, and in particular the basis for the processing of such personal data by the trade union are not the provisions of the Act on Trade Unions.

Seniority pension

A civic proposal, initiated by NSZZ "Solidarność" (Polish trade union), to amend the Act on Pensions and Disability Pensions from the Social Insurance Fund and certain acts, has been submitted to the Parliament.

The draft assumes introduction of the so-called seniority pension to the Polish legal system. Below we present the most important assumptions of the draft:

- the persons eligible for a seniority pension would be those born after 31 December 1948;
- the seniority pension would be due upon reaching the length of service of 35 years for women and 40 years for men, regardless of reaching the retirement age by them (60 years for women and 65 years for men);
- the amount of the seniority pension could not be lower than the lowest pension benefit, as determined in Article 85 Section 2 of the Act on Pensions and Disability Pensions from the Social Insurance Fund (currently, as a rule, it is PLN 1,250 per month); it would therefore not be possible to grant it in a situation where a person had not accumulated sufficient pension insurance contributions in their account;
- once the above criteria have been met, the insured would have the right to choose the moment of termination of his/her work, while he/she could, of course, continue to work after reaching the above-mentioned length of service so as to increase the amount of the pension benefit.

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