

NEW EMPLOYER OBLIGATIONS RELATED TO MAINTAINING EMPLOYEE RECORDS AS OF JANUARY 1, 2019.

EMPLOYEE RECORDS RETENTION PERIOD

As of January 1, 2019, **new rules on the terms and period of storing employee records will enter into force**. The draft regulation will be officially announced in the near future.

Currently, the retention period of employee records is 50 years, starting from termination of employment. As of January 1, 2019, the employee records retention period will be shortened to **10 years**.

However, the new period will apply only to employees **employed after January 1, 2019**. In the case of employees employed before the new regulations become effective, the documentation retention period will be:

- **50 years** for employees employed before 31.12.1998.
- **10 years** for employees employed between 01.01.1999 and 31.12.2018, provided that the employer submitted **the informational report to the Social Insurance Institution (ZUS)**. In this situation, the period for storing employee records shall start from the end of the calendar year when the report was submitted.
- **50 years** for employees employed between 01.01.1999 and 31.12.2018, if the employer did not submit the informational report to ZUS.

Given the fact that the scope of data in **the informational report to ZUS** is rather extensive, while its form and submission deadlines are restrictive, it should be assumed that for the employees employed between 01.01.1999 and 31.12.2018, the retention period of employee records will be **50 years**.

CHANGES IN EMPLOYEE RECORDS

As of January 1, 2019, the scope of employee records and employer's obligations in this respect are to undergo significant changes.

Currently, the employer is obliged to keep personal files of every employee, which consist of 3 parts: related to applying for a job, course of employment, and termination of employment. The draft of the new Regulation provides for the following division of personal files:

- Part A – declarations or documents related to applying for a job,
- Part B – declarations or documents related to concluding the employment contract and the course of employment,
- **Part C – documents related to the employee's disciplinary liability (reprimands, disciplinary sanctions),**
- Part D – declarations and documents related to termination or expiry of employment.

The employer will also be obliged to adapt current employees' personnel files to the new form **by June 30, 2019**.

NEW OBLIGATION IN EMPLOYEE RECORDS

As of January 1, 2019, the lawmakers want to impose a **new obligation** on employers of keeping a separate personnel file for each employee, **which, according to the current draft of the Regulation, is to consist of:**

- 1) detailed and complex record of working time,
- 2) record sheet (list) of paid remuneration for work and other work-related benefits,
- 3) record sheet of assigned working and protective clothes and footwear and personal protection equipment,
- 4) documentation related to other employee rights or obligations, if keeping it is necessary to pursue employment claims.

It is worth noting that currently the data covered by the new obligation are kept by the employer for the purpose of preparing the payroll. The major change is that these data are to be kept **individually** for each employee and will be part of **employee records** with the same retention period as personnel files (10 or 50 years).

A failure to keep records or inadequate employee record keeping will be subject to a fine from PLN 1,000 to PLN 30,000.

FORM OF KEEPING EMPLOYEE RECORDS

The amended provisions of the Act allow the employer to **keep and retain employee personal files in paper or electronic form**. The detailed requirements for keeping and retaining employee records in electronic form and for transferring employee records between ICT systems are to be regulated by the provisions of the Ordinance of the Minister of Labor and Social Policy on employee records, which currently are at the draft stage.

In case of changing the form of keeping and retaining employee records, the employer is obliged to inform the employees about that fact.

Additionally, in case of termination or expiry of employment after **31.12.2018**, the employer is obliged to attach to the certificate of employment information about:

- the period of retention of the employee's records,
- the possibility of its receipt for one month after the end of the storage period,
- the destruction of these records if they are not received within the above time limit.

Moreover, the employee will be able to request a copy of all or part of his/her records.

FORM OF PAYMENT OF REMUNERATION

The employer who pays **remuneration in cash**, is obliged to call upon the **employee by January 21, 2019** to:

- provide a bank account number, to which remuneration will be paid
- submit an application for further payment of remuneration in cash.

CONTACT US

This document has been prepared for information purposes only and is of a general nature. Before taking any action pursuant to the above information, we recommend that you obtain a valid opinion of TPA experts.



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