

Information for foreigners regarding special legal measures during SARS-CoV-2 virus outbreak

On 31 March 2020 there came into force *the Act of 31 March 2020 on special measures related to preventing, counteracting and combating COVID-19 and other infectious diseases and emergencies induced by them, as well as other acts (Official Journal item 374 as amended)*, the so-called *special Act*, which introduced specific legal measures concerning foreigners working in the territory of the Republic of Poland for the duration of epidemic emergency or state of epidemic announced in connection with the outbreak of SARS-CoV-2 virus:

1. Amendments regarding foreigners' access to the Polish labour market

- **Extended validity of work permits and permissible period of work without work permit due to a statement on entrusting the performance of work to a foreigner**

If the last day of validity of work permit falls during epidemic emergency or state of epidemic announced in connection with the outbreak of SARS-CoV-2 virus, **the period of validity of a foreigner's work is extended under the law until the lapse of the 30th day following the day of revoking the state** which existed as the last one (*Art. 15zzq par. 1 of the special Act*).

The above provision refers to all types of work permits of foreigners, including seasonal work permit and decision on extension of work permit.

A similar measure was taken with regard to foreigners working on the basis of statements on entrusting work to a foreigner. If the expiry date specified in the statement on entrusting work that was registered in the county labour office falls during epidemic emergency or state of epidemic announced in connection with the outbreak of SARS-CoV-2 virus, **the foreigner may perform work that was specified in the statement for the benefit of the entity which submitted the statement in the period or periods covered by the statement until the lapse of the 30th day following the day of revoking the state** which existed as the last one without a work permit (*Art. 15zzq par. 3 of the special Act*).

Additional period of work performed under the a/m Act is not included in the overall period of work as referred to in *Art. 87 par. 3 and art. 88z par. 2 point 3 of the Act of 20 April 2004 on promotion of employment and labour market institutions*, i.e. the period that collectively cannot exceed 6 months within successive 12 months. This means that a foreigner – in a situation described above – may legally perform work specified in the statement on entrusting the performance of work for a period longer than the set limit of 6 months within the successive 12 months.

- **Possibility to modify a contractual relationship, which constitutes the basis of work performance by foreigners, with regard to conditions set out in a relevant permit**

Pursuant to *Art. 15z⁵ of the special Act* if the entity entrusting work to a foreigner has taken advantage of the rights specified in **Art. 3, Art. 15g par. 8, Art. 15x par. 1 or**

Art. 15z^f par. 1 of the special Act and changed the conditions of foreigner's work set out in:

1. temporary residence and work permit,
 2. temporary residence permit to perform work in a highly skilled profession,
 3. work permit,
 4. seasonal work permit
 5. statement on entrusting the performance of work to a foreigner that was entered in the register of statements under *Art. 88z par 2 of the Act on promotion of employment and labour market institutions*
- the foreigner **may perform work under these altered conditions** without the need to change the work permit, obtain a new work permit or enter a new statement on entrusting the performance of work to a foreigner in the register of statements.

The above provision applies **accordingly to conditions of work performance specified in temporary residence permits** as referred to in **Art. 139a** (in-house relocation) and **Art. 139o** (long term mobility) of the *Act of 12 December 2013 on foreigners*, if the above rights specified in the *special Act* are taken advantage of by a receiving entity established in the territory of the Republic of Poland.

A similar measure was taken with regard to foreigners taking of **short term mobility**. If a receiving entity referred to in *Art. 3 point 5b of the Act on foreigners* that is established in the territory of Poland takes advantage of the rights comprised in the *special Act* leading to a change in conditions of work performed by a foreigner that are specified in documents enclosed with the notification referred to *Art. 139n par. 1 point 3 of the Act on foreigners*, the **foreigner may perform work under these altered conditions**.

- **The possibility to be exempt from the obligation of obtaining work permit by the entity entrusting work to a foreigner if a foreigner performs seasonal work**

Pursuant to *Art. 15z⁷ par. 1 of the special Act* **work permit is not required** during epidemic emergency or state of epidemic announced in connection with COVID-19 and also until the lapse of the 30th day following the day of revoking the state which existed as the last one, if a foreigner performs work in the scope of subclasses of activity specified in the provisions issued under *Art. 90 par. 9 of the Act on promotion of employment and labour market institutions* seasonal work) and holds:

- a. any work permit valid after 13 March 2020 or
- b. a statement on entrusting the performance of work to a foreigner that was entered in the register of statements where at least one day of work specified in the statement fell after 13 March 2020.

The above provision shall apply to extended work permit and extended seasonal work permit accordingly (*Art. 15z⁷ par. 2 of the special Act*).

2. Amendments regarding legality of foreigners' stay in Poland

- **Extending the validity of domestic visas and temporary residence permits under the law**

If the last day of foreigners' stay under a domestic visa falls during epidemic emergency or state of epidemic announced in connection with the outbreak of SARS-CoV-2 virus, **the period of stay under this visa is extended under the law until the lapse of the 30th day following the day of revoking the state** which existed as the last one without a work permit (*Art. 15zd par. 1 of the special Act*).

Likewise, **the period of validity of temporary residence permits is also extended**. It means that a foreigner does not have to apply for official confirmation of validity of a temporary residence permit.

- **Stay of foreigners in the territory of the Republic of Poland Short under short-term residence permits is considered legal**

In case of a foreigner residing in Poland on the day on which epidemic emergency or state of epidemic in connection with the outbreak of SARS-CoV-2 virus was first announced:

- a. based on a Schengen visa,
 - b. based on a visa issued by another Schengen country,
 - c. based on a residence document issued by another Schengen country,
 - d. based on visa-free travel,
 - e. based on a long-term visa issued by another EU Member State that is not a Schengen country, if it entitles one to stay in the territory of the Republic of Poland under European Union legislation
- **their stay in the territory of Poland is considered legal** starting from the day following the last day of legal stay under those visas, documents or visa-free travel until the lapse of the 30th day following the day of revoking the state of emergency or state of epidemic which existed as the last one (*Art. 15z¹ of the special Act*).

At the same time **the a/m foreigners are entitled to perform work in Poland** if they hold:

- a valid work permit or a valid seasonal work permit,
 - a statement on entrusting the performance of work that was entered in the register of statements, including a statement which under *Art. 15zzq par. 3 of the special Act* entitles one to perform work in the period or periods not covered by the statement, i.e. the possibility for a foreigner to perform work in line with a statement submitted by a given entity, if the period of work specified therein falls during epidemic emergency or state of epidemic announced in connection with the outbreak of SARS-CoV-2 virus
- **Extension of deadlines for submission of applications for temporary residence permit, permanent residence permit, residence permit for a long-term UE resident, for extension of the visa and stay in the framework of non-visa travel**

If the deadline for submission of application on the a/m residence titles falls during epidemic emergency or state of epidemic announced in connection with the outbreak of SARS-CoV-2 virus, **the deadline is extended until the lapse of the 30th day following the day of revoking the state of emergency or state of epidemic which existed as the last one** (*Art. 15z of the special Act*).

The foreigner's stay in the territory of Poland during the a/m extended period

shall be considered legal in the meaning of *Art. 108 par. 1 point 2 of the Act on foreigners*, if the foreigner submits an application during this period. This means that **the foreigner's stay prior to submitting the application shall be considered legal**, regardless of the outcome of the proceedings.

- **Extension of validity of documents listed below under the law during the state of emergency or state of epidemic:**
 1. residence cards issued to foreigners who hold temporary residence permit, permanent residence permit and long-term EU resident permit, permission to stay for humanitarian reasons, refugee status, subsidiary protection,
 2. foreigner's temporary identification certificates (TZTC),
 3. residence cards for family members of an UE citizen, documents certifying the right of permanent residence and permanent residence cards for family members of an EU citizen,
 4. Polish identification documents of a foreigner,
 5. documents on "permission for a tolerated stay"
- **until the lapse of the 30th day following the day of revoking the state which existed as the last one.**

USEFUL LINKS:

State Labour Inspection:

<https://www.pip.gov.pl/pl/>

Helpline of the Border Guard:

<https://www.strazgraniczna.pl/pl/granica/utrudnienia-w-ruchu/8312,Infolinia-Strazy-Granicznej.html>

Office for Foreigners:

<https://udsc.gov.pl/cudzoziemcy/epidemia-koronawirusa/>

Ministry of Family, Labour and Social Affairs:

<https://www.gov.pl/web/koronawirus>

Social Insurance Institution:

<https://www.zus.pl/o-zus/aktualnosci/-/publisher/aktualnosc/1/tarcza-antykryzysowa-w-sparcie-z-zus/2551371>