



Amendments to the Labour Code concerning OHS

On 25 September, the Council of Ministers (the Polish government) proposed amendments to certain statutes, including two amendments to the Labour Code regarding OHS. The bill will now be debated in the Parliament, with the amendments to enter into force on 1 January 2019.

The current amendment to the OHS regulations will involve two changes:

- 1. Lifting the obligation for 5 million clerical and administrative staff to undergo mandatory periodical OHS training.**

The draft lifts the mandatory periodical OHS training obligation regarding 5 million employees in the least accident-prone lines of business. The proposed amendment involves clerical and administrative staff, employed by employers assigned a risk category that is not higher than three within the meaning of Social Insurance regulations.

- 2. Increasing the upper limit of the number of employees to 50 where the employer can fulfil the OHS Service tasks.**

After the amendments come into force an employer employing up to 50 staff will be allowed to perform the OHS Service tasks. This will be conditional on completion of special training for employers performing the tasks of an OHS Service in accordance with section 13(1) of the regulation of the Minister of Economy and Labour of 27 July 2004 on training in occupational health and safety (Dz.U. 2004 No. 180.1860, as amended).



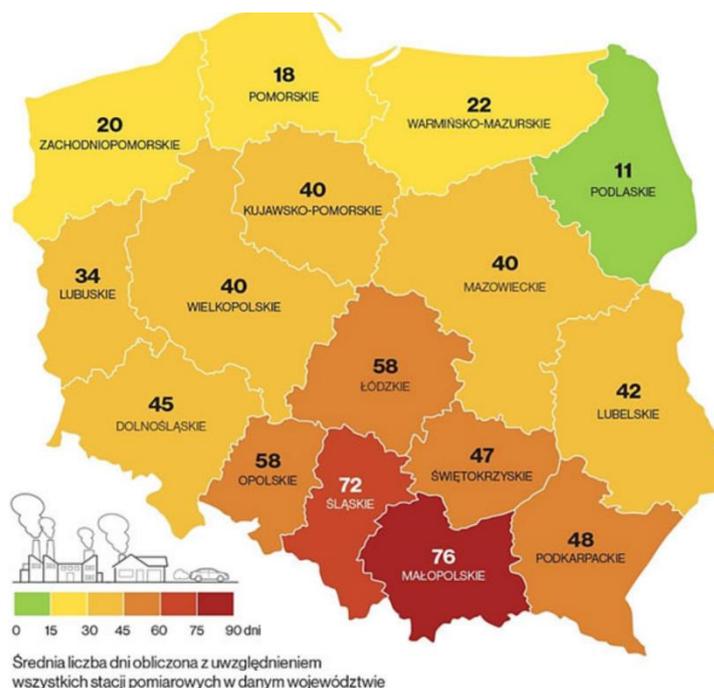
Can an employee refuse to work?

Under the OHS regulations, every employer is under an obligation to ensure safe and hygienic work conditions to its staff. Employees, on the other hand, should perform their duties diligently and conscientiously. An employee can refuse to work where continuing to perform an activity would pose a danger to their life or health.

Labour Code Article 210(1) sets out a detailed list of situations where an employee can refuse to work. Under that provision, such right to refuse to work arises where:

- The conditions of work are not in compliance with OHS regulations and pose a direct threat to an employee's life or health;
- The work performed by an employee poses such threat to others;
- An employee's physical or psychological condition does not ensure a safe performance of work and poses a threat to others (this applies to those employed to do works requiring special psychological or physical skills). A list of such works is set out in an appendix to the regulation of the Minister of Labour and Social Policy of 28 May 1996 (Dz. U. 1996.62.287, as amended).

Section 2 of the same Labour Code article provides that where refraining from work does not remove the above danger, an employee has a right to leave the danger zone.



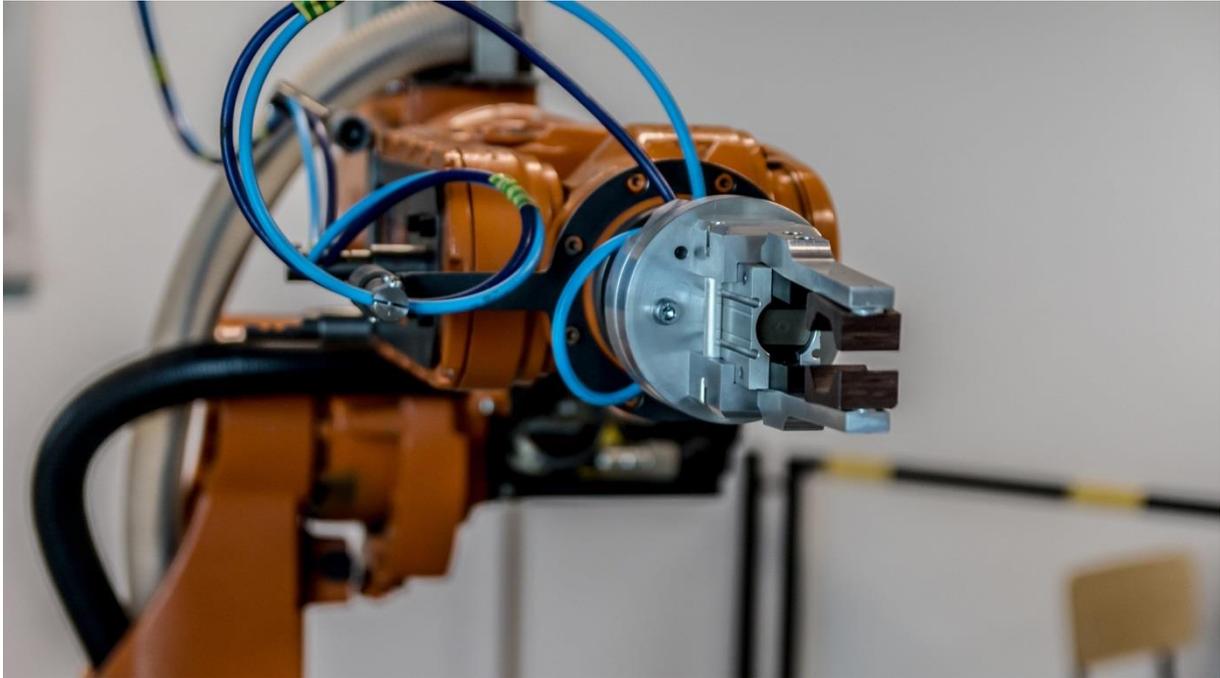
NIK: Poland is among the EU states with worst air quality

The latest Supreme Chamber of Control (NIK) report concerning the protection of air against pollution leaves one with no illusions: Poland is still among the EU states with worst air quality. According to the NIK, the actions hitherto undertaken by both the relevant ministries and local authorities (with few exceptions) have been by far insufficient.

According to the report, the main cause of insufficient air quality in Poland is the particulate matter and B(a)P emissions from household stoves and local coal-fed boiler rooms with low coal-burning efficiency. This is the so called 'low emission'. It comes from multiple sources introducing into the air small amounts of pollution.

In the NIK's opinion, the draft regulation on quality requirements for solid fuels drawn up by the Minister of Energy in February purports above all to secure the interests of the coal lobby rather than aiming to protect Poles and the natural environment against the adverse effects of air pollution. The European Environmental Agency has published data according to which over 46 thousand people a year die as a result of polluted air (due to the impact of PM_{2,5}).

The audit also showed alarming states. According to the NIK, reaching the required emission reduction levels for benzo(a)pyrene in the communal-household sector at the regional (voivodeship) level may take as many as 24 to 100 years given the current rate of progress.



Robotisation increases workers' safety

Western-European and American companies are already in the forefront of robotisation and automation of processes in their respective industries. In terms of safety, the new technologies may prove to reduce work accident rates as well as cutting costs.

The data published by the GUS (Main Statistical Office) and the reports of the State Labour Inspectorate name incorrect employee behaviour as the most frequent cause of accidents at work is. Process automation, where correct and OHS-compliant performance of the actions involved will be ensured by robots, may result in an increase in worker safety and hence a reduction in the number of accidents. However, as long as humans are responsible for the machine, tragic events will continue to happen.

Therefore, the specialists dealing with safety in business face a new challenge – an organisation of work where at least a part of the work is done by a robot. Good solutions include technology-based training aiming at ensuring an adequate level of knowledge of safe work conditions.

Companies make also use of safety sensors and a number of other security measures (such as separated zones, supply cut-offs and individual protection measures). They also pursue restrictive information policies at workstations by posting relevant messages at key safety spots.



Safe operation of earthwork machines in construction

Construction works qualify as dangerous works causing many occupational hazards, including as a result of the machinery used. OHS regulations specify the requirements and obligations employers must comply with when exploiting machines for earthworks, construction works and road works.

Those supervising construction and earthworks should pre-plan specific works, taking into account the nature of work at the various building sites, operators' skills and knowledge as well as the equipment and intended use of the machine. This has an important impact on the operator's safety as each machine is designed for a specific function in accordance with its intended use. Using such machines for purposes other than their intended use may lead to dangerous situations.

Moreover, a supervisor should inform the operator of an earthwork machine of any infrastructural underground installations situated in the area of work (the utility infrastructure), and such machines should be used in an area that has been surveyed for geological and ground conditions.

Another point to consider in safely using a machine is its technical condition. A machine should be fit for use. It should also be remembered that such machines can only be operated by those with proper qualifications in accordance with the machine's type and class.



What do the fire service check?

The basic duties of the fire service, in addition to organising and carrying out rescue actions during fires and natural disasters, include supervision over compliance with fire protection regulations. To this end, fire safety audits are carried out at enterprises.

During such audits, the controllers check, among other things:

- the state of evacuation routes and their proper marking,
- signalisation and alarm installations, and emergency lighting;
- casing and smoke protectors in staircases;
- handheld extinguishers, hydrants and water supply as well as fixed extinguishers (e.g. sprinklers);
- knowledge of evacuation procedures;
- compliance of the site realisation with the building design;
- compliance with safety requirements in an organisation posing a risk of a serious industrial breakdown;
- capabilities and conditions for rescue actions conducted by the fire service;
- correctness of the fire safety manual.

The controllers are authorised to access nearly all sites and premises. Exceptions include residential parts, international organisations and institutions vested with relevant diplomatic or consular immunities, and sites managed or supervised by the agenda and organisational units subordinated to the Ministry of Internal Affairs.



Work hazards for earthwork machine operators

Earthwork machine operators are exposed to a number of hazards, mostly on account of the nature of their work. Both employer and the person supervising such works must strictly comply with OHS regulations and other regulations concerning the safe operation of machines.

The threats to which a machine operator is exposed can be divided into two categories: those concerning the interior of the operator's cabin, and those that occur outside the cabin. In this job, the following additional hazards can be identified:

1. **physical hazards**, such as: noise, mechanical vibrations, dust, microclimate inside the operator's cabin, fire (e.g. of the machine or the site), burns, explosions, electric shock, being captured, crushed or hit by the movable parts of the machine, being knocked by transport vehicles or other earthwork machines, collision with transport vehicles or other machines, fall onto a lower level;
2. **chemical hazards** – poisoning with fumes or contact with chemical substances (e.g. oils or machine maintenance liquids);
3. **biological hazards** – infection with viruses, bacteria, fungi or parasites;
4. **psychophysical hazards** – static physical load (e.g. forced body position) and dynamic physical loads as well as nervous-psychological pressure.



Car garage OHS – remember about work clothes

Given the type of work performed, safety of employees is a very important issue in every car garage. Under the OHS regulations, it is an employer’s obligation to ensure adequate work conditions, and to equip the staff with proper personal protective equipment and work clothes.

The work uniform of a car mechanic should match a given position and consist of:

- work clothes (in the form of a shirt, trousers, blouse or protective overalls) providing adequate ventilation and freedom of movement;
- outer clothing protecting against cold or precipitation (in winter, if work is performed outdoors);
- a reflexive vest (for those working in open areas);
- proper footwear - the boots must be comfortable, with thick soles made of proper materials and reinforced toes; an anti-pierce padding is also important;
- protective gloves and overalls for short use;
- adequate personal protection measures. These include: glasses, visors or goggles, helmet or hearing protectors, such as earmuffs or earplugs, and also masks or half-masks protecting the breathing system, nose and mouth against dust or inhaling chemicals.



Smog reduces intelligence

Chinese researchers have examined 20 thousand people for impact of polluted air on their bodies. The findings have been disturbing - smog results in people being impatient, unwilling to cooperate, and significantly impacts the intelligence levels.

The UK's Guardian, quoting the research conducted in China, has reported that the influence of highly toxic air "is equivalent to a loss of a year's education loss".

- Polluted air may cause the people exposed to it to have their level of education by a year - says Xi Chen, a member of the research team. - We know that smog mostly harms elderly people, especially those over 64, and men with lower education. In the latter cases, the loss may be equivalent to several years of education – he explains.

The research was carried out between 2010 and 2014 on women and men of various ages. 20 thousand people did mathematical and language tests. The results were than controlled against the nitrogen dioxide and sulphur dioxide levels in the air.

It was determined that a high level of pollution contributed to significant drops in the test scores in languages and arithmetic. In the researchers' opinion, the air pollution brings about "vast reduction in intelligence". Moreover, where the level of pollution was high, the respondents got impatient or refuse to cooperate during the tests.



Accident on the way back home – when can it be deemed accident at work?

If an employee returning home from work suffers from a sudden, unexpected event, brought about by an external cause, such an accident may be deemed an accident of the way from work back home.

An accident on the way back home is a sudden event resulting from an external cause which occurred on the way from the place of work, or place where another activity is performed that entitles the person to social benefits, if the way was the shortest and was not interrupted. However, there are exceptions to this rule. The way back can be interrupted if:

- The interruption was justified by the person's life needs and was not longer than necessary,
- While not being the shortest, the way was the most convenient one for the insured person.

Furthermore, the way back from e.g. the place of employment, the place where one ate or was trained will also qualify as way back home. This means that where an employee was sent to another location or to training or studies, as part of their work duties, the way back home from such places will be deemed an accident at work.

Should such misfortune occur, an employee should immediately inform their employer, who is under an obligation to investigate into the causes of the accident.