

# Track Changes

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January 2019

## UPCOMING CHANGES TO EMPLOYMENT DOCUMENTATION

The Polish Parliament has adopted an act that became effective 1 January 2019 and shortens the retention period of human resource files and allows them to be stored in an electronic form.

### HOW LONG TO STORAGE EMPLOYMENT DOCUMENTATION?

Former law required employers to store documentation related to an employee and the employment relationship ("employee documentation") for a period of 50 years from the date of employment termination. This retention period is now shortened to 10 years for employees employed on and after 1 January 2019. Employers are also now required to submit monthly reports to the Social Insurance Institution (ZUS) containing information necessary to determine the amount of retirement pension, as well as any disability pension, due to an employee.

Employee documentation of individuals employed after 31 December 1998, but before 31 December 2018, must continue to be stored for 50 years. However, this period may be shortened under the conditions that (i) the employer submits a one-time declaration (ZUS OSW) on the intention to provide reports on all employees' social insurance contributions and benefits to ZUS and (ii) these reports (ZUS RIA) are actually sent to ZUS. In such a case, the period of storage will be shortened to 10 years starting from the end of the calendar year in which such an employee's information reports were submitted to ZUS.

### NEW RESPONSIBILITIES FOR EMPLOYERS

The new law will expand the scope of an employer's obligations related to the termination of employment relationships. When an employment relationship is terminated, the employer will be required to provide the employee, in addition to a work certificate, with information (in paper or electronic form) on how long the employee's documentation will be stored and on what date such employee documentation will be available to be handed over to the employee, as well as on the employer's right to destroy the employee's documentation should it not be picked up by the employee at the offered time. If an employer fails to submit this information to an employee, and if the employee suffers

damage due to the destruction of his/her personnel files, this failure may be grounds for the employee to claim damages.

It is also important to note that the destruction of employee documentation before the compulsory deadline is an offense against the employee's rights and is subject to a fine of up to PLN 30,000.00 (approx. EUR 7,000).

## METHOD OF STORING EMPLOYEE DOCUMENTATION

The new law will also impact the method of storing employee documentation. Employers now have the option to store employee documentation in either a paper or an electronic form regardless of when an employee was first employed. An employer may change the form in which employee documentation is kept and stored at any time.

Switching to electronic storage from paper is to be done by scanning paper documents and adding a qualified electronic signature or a qualified electronic seal. Unfortunately, this requirement may create a practical barrier due to the fact that qualified electronic signatures and qualified electronic seals are still not common among most Polish employers. Employees will need to be informed about any changes to how their documentation is maintained and stored, as well as of the possibility of obtaining the previous form of their documentation. The employee has 30 days to collect their documentation from the date they are notified by their employer about a change in storage methods.

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