



Calculating Sickness Benefit

Background

Polish law provides that extra pay (everything in excess of salary including bonuses), should not be taken into account when calculating sickness benefit. This also includes the situation where the extra pay not been paid out during the period of sickness and even if social security has been paid on the extra pay. This restriction was recently questioned in the Constitutional Tribunal decision of 24 June 2008.

Implications of the Decision

The decision provides that (unless company work or pay regulations directly provide otherwise) extra pay should be taken into account when calculating sickness benefits if:

- social security deductions have been paid on the extra pay; and
- the employee, during the sickness period, did not receive the extra pay.

This rule also applies to companies that do not have work or pay regulations or any other agreements setting out the conditions of remuneration.

How do I implement this?

As of 7 July 2008, in order to calculate the amount of sickness benefit, all elements of remuneration that have had social security deductions, and which have not been paid out during sickness, must be taken into account.

Employees are entitled to make a claim to their company or the Social Insurance Institution, for reimbursement of sickness benefit which has been paid and did not include this new calculation. This applies retrospectively for 3 years.

This decision allows employees to make claims for additional payments of sickness benefits. We strongly suggest that you take professional advice on this issue.

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