



## The rules and catalogue of enhanced penalties during the epidemic

### Severe penalties for violations of orders and prohibitions

The progressive lifting of restrictions on the conduct of business activities does not exclude the risk of imposing a severe penalty for infringement of restrictions that are still in force although their scope is different from that at the beginning of the epidemic. The current shape of the restrictions on business activity and everyday life (e.g. the obligation to wear masks) results from the Regulation of the Council of Ministers dated of 16 May 2020 on establishing certain restrictions, orders and prohibitions in connection with the outbreak of the epidemic. The Regulation indicates the areas of economic activity in which it is possible to take up activity. However, it provides for a number of exceptions and conditions for conducting business activity in the new reality. Failure to meet these conditions or exceeding the limits that the Regulation tends to outline, which however are not always clear, may result in the imposition **severe immediately enforceable fines of up to PLN 30,000**. Failure to properly fulfil conditions of conducting business activities, e.g. sports or commercial activities (such as ensuring the possibility of hand disinfection, providing the required space between customers, etc.) also raises the risk of criminal liability, e.g. for exposing other persons to contamination with the virus or to a direct threat of death or serious injury.

The rules for imposing administrative fines for infringements or of criminal liability have not changed. We recall them however below.

### Catalogue of financial penalties for violations of orders and prohibitions

Penalty	Conduct → Violation
Up to PLN 30, 000	> Obligation of hospitalisation, quarantine or isolation imposed by the competent authority or arising under law
From PLN 5,000 up to PLN 30,000	<ul style="list-style-type: none"> <li>&gt; Restriction of movement or travel</li> <li>&gt; Order to evacuate</li> <li>&gt; Order to remain in specific locations or a prohibition thereof</li> <li>&gt; Prohibition on leaving “ground zero”</li> <li>&gt; Order to move or travel in a specific manner</li> </ul>
From PLN 10,000 up to PLN 30,000	<ul style="list-style-type: none"> <li>&gt; Temporary restriction or prohibition of the trade and use of certain objects or foods</li> <li>&gt; Temporary rationing of the supply of certain types of goods</li> <li>&gt; Temporary restrictions on the functioning of certain institutions or establishments</li> <li>&gt; Prohibition on the organisation of shows and other public gatherings</li> <li>&gt; Obligation to perform sanitary treatments, if their performance is associated with the operation of specific production, service, or commercial facilities or other premises</li> <li>&gt; Temporary restrictions on certain aspects of business activities</li> <li>&gt; Temporary restrictions on the use of premises or property and the obligation to secure them</li> <li>&gt; Obligation to secure premises or property</li> </ul>

From PLN  
5,000 up to  
PLN 10,000

- > Order to make property, premises, or grounds available
- > Order to deliver means of transportation for anti-epidemic activities provided for in anti-epidemic plans
- > Obligation to carry out preventive vaccination
- > Obligation to undergo medical examinations and for patients and persons suspected of a disease to apply other prophylactic measures and treatments

## Immediately enforceable financial penalties

- »» The maximum penalty is PLN 30,000.
- »» In case of repeated violations of an order or prohibition - the penalty imposed will be in the amount of the previously imposed penalty increased by 25%, for violations of both individual and general prohibitions and orders, i.e. those resulting from Regulations of the Minister of Health or the Council of Ministers.
- »» Penalties may also be imposed on businesses- legal persons (and other collective entities).
- »» The competent authority for their imposition is the district sanitary inspector or the border sanitary inspector.
- »» Appealing against the decision does not suspend the decision's enforcement.
- »» These penalties apply concurrently with currently applicable penalties for the violation of quarantine or movement/travel prohibitions.

## Risks associated with the envisaged penalties

- »» These penalties are much more onerous than those provided for in the Code of Petty Offences (limited to a fine of PLN 500, or PLN 5,000 after a court trial);
- »» The administrative authority imposing the penalty has limited discretionary powers compared to a criminal court;
- »» The right to defend against the imposition of a penalty may prove to be limited as:
  - > holding a hearing in an administrative procedure is not the rule;
  - > the presentation of written arguments defending against the imposition of the penalty is possible, unless the administrative authority considers the case to be obvious and does not require the collection of evidence, information and explanations;
  - > the right to actively participate in the proceedings may be restricted in light of the ongoing epidemic.