

NJORD Estonia: What to keep in mind if restrictions are imposed on your business?

In order to prevent the spread of the virus outbreak, the Police and Border Guard Board (PBGB) has decided to restrict the right to the retail sale of alcoholic beverages in more critical counties. The Government of the Republic has the right to restrict the retail sale of alcoholic beverages in the country as a whole, the PBGB in the county as a whole, and the local government in its territory as a whole or at specific points of sale.

On August 28, the Prefect of the Northern Prefecture issued an order to restrict the right to retail alcoholic beverages in Harju County between 11 pm and 6 am. The next day, i.e. August 29, had already been set for the entry into force of the order. The order was made public on the PBGB's website, social media, and other public media channels.

Previously, alcohol sales were restricted in Tartu County and, as of 31 August, also in Põlva, Valga, and Võru counties. Understandably, alcohol traders (including bars, locales, and other establishments) have responded to the restrictions, although alcohol sales make up a significant part of their sales and turnover.

Gratefully, the Office of the Chancellor of Justice also responded to the PBGB's order, drawing attention to the fact that although the PBGB has the right to restrict the sale of alcohol by county, such an order cannot enter into force the very next day if it is only publicly announced.

According to the general rules of administrative procedure, an order made public will take effect on the 10th day following its publication. Thus, the order issued on 28 August for Harju County can, in principle, come into force only from 7 September. However, it must be borne in mind that if the order has been served on the person, it is possible that it will take effect earlier.

The restrictions imposed are clearly driven by the virus outbreak that has been raging so far. It cannot be ruled out that similar restrictions will be imposed further in other counties. In such a case, it should be borne in mind, as a general rule, that if the restriction is made public only by means of the media, it will not take effect until the 10th day after its publication. However, once the order on which the restriction is based has been served on you, it may apply to you earlier.

If you find that the PBGB order violates your rights or you have suffered damage, you have the right to appeal to the administrative court. It should be borne in mind that an appeal must be lodged with the court within 30 days of notification of the order or, in certain cases, within 30 days of the occurrence of its effect.

In case you suspect that the application of a future restriction is not reasonable or lawful in your opinion, it is definitely worth checking the legal circumstances involved.



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