



Labour Law Alert

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Agnieszka Fedor

Partner

Tel. +48 22 608 71 50

Fax +48 22 608 70 70

E-mail: agnieszka.fedor@skslegal.pl



Karolina Kanclerz

Senior Counsel

Tel. +48 71 346 77 05

Fax +48 71 346 77 09

E-mail: karolina.kanclerz@skslegal.pl

PROGRAM OF PREFERENTIAL EMPLOYER CONTRIBUTIONS PLUS TO THE SOCIAL INSURANCE INSTITUTION FOR MICROENTREPRENEURS

At the end of November, the government announced a new draft law that constitutes the implementation of one of Prime Minister Mateusz Morawiecki's exposé points, i.e. the law on the amendment of the act on social insurance system and the act on the National Tax Administration. The main assumption of the submitted project is to implement a relief for microentrepreneurs, i.e. the so-called „Program of preferential employer contributions PLUS to the Social Insurance Institution”.

Addressees of the program

Since 1 January 2019, the so-called Program of preferential employer contributions to the Social Insurance Institution has been in force, with over 186 thousand entrepreneurs declaring their willingness to use it. Program of preferential employer contributions to the Social Insurance Institution was a program addressed to entrepreneurs whose annual income did not exceed the level of 30 times of the amount of minimum remuneration for work. In the new solution, the draft provider abandoned the parametric manner of determining the revenue ratio, deciding to determine its fixed amount. In order to benefit from the new solution, in 2020 entrepreneurs will have to declare annual revenue for 2019 not exceeding PLN 120,000 (thus, the revenue threshold was almost doubled from PLN 63,000 to PLN 120,000).

New rules for calculating the contribution base

According to the draft, the basis for social insurance contributions will be calculated in accordance with the amount of the average monthly income from non-agricultural business activity achieved by the entrepreneur in the previous calendar year. The basis for the amount of contributions will constitute half of the income, taking into account the number of days of conducting business activity. The minimum amount of preferential insurance contributions will not be able to be lower than 30% of the minimum remuneration for work in January of a given

calendar year and higher than 60% of the anticipated average remuneration for a given calendar year.

The reduced contribution can be paid for a maximum of 36 months (3 years) within the subsequent 60 calendar months (5 years) of conducting the business activity. After this period, it will be possible to benefit from the relief again. Making use of „The Program of preferential employer contributions PLUS to the Social Insurance Institution” will be a voluntary solution. The Program is to be implemented on 1 January 2020 and it is currently at the stage of legislative work in the Parliament.

A CHALLENGE IN THE NEW PARLIAMENTARY TERM OF OFFICE - IMPLEMENTATION OF THE WORK-LIFE-BALANCE DIRECTIVE

Several months have passed since the adoption by the European Parliament and the Council (EU) of the Directive on work-life balance for parents and guardians, commonly referred to as the "work-life-balance directive". Although the EU Member States still have plenty of time to implement its provisions, everything points to the fact that the newly appointed government and parliament of the new term of office will have to face the problem of adaptation of national regulations to EU standards. What awaits the legislator in connection with the necessity to implement the directive?

Main assumptions of the directive

The two main areas regulated by the new directive include individual rights relating to paternal, parental, care leave and flexible work organisation for working parents and guardians. The Directive imposes an obligation to implement into national legislation, among others, the following:

- paternal leave of at least 10 working days during the childbirth period. The leave is to be granted on a full-time basis regardless of length of service, but the conditions for its payment may be subject to a certain length of service;
- parental leave of a minimum of 4 months, from which at least 2 months will be paid and cannot be transferred to the other parent;
- care leave of 5 working days in a year the aim of which is to care for relatives who for



- serious health reasons need care or support;
- flexible work organisation, which is not only for parents but also for guardians.

Leaves related to parenthood in Polish legislation

The state of Polish labour law meets a large part of the adopted guidelines, some of them even more than others (e.g. paternal leave or maternity leave). This does not mean, however, that the Polish legislator will not have to implement legislative amendments in order to fully implement the directive. Parental leave will have to be organised in such a manner that fathers can take two months of paid parental leave, which cannot be transferred to the child's mother (currently only child care leave provides an individual 1-month right to take leave by the child's father, but child care leave is unpaid leave). In addition, the directive provides for the possibility to take parental leave at any time until the child reaches the age of eight. This is another area that will need to be amended. In Polish law, parental leave is used directly after maternity leave and is not an autonomous right, since it depends on previous use of maternity leave. This means that the Polish legislator is faced with the need to thoroughly amend the provisions on the granting of parental leave, with particular attention being paid to fathers who, in accordance with the directive, will have to be guaranteed 2 months' individual and paid parental leave.