

SK&S – Employment Law Newsletter

Changes in labour law that came into force at the beginning of the year

In January and February 2016, a number of substantial amendments to labour law regulations came into force, in particular:

- 1) What had so far been referred to as additional maternity leave was, as of 2 January 2016, absorbed by the parental leave, which has now been increased to 32 weeks (in case of a single birth). The parental leave may be used in full or in parts by the end of the year in which the child reaches 6 years of age.
- 2) Starting from 1 January 2016, if the calculation basis for social security contributions under a mandate agreement (or a services or a commercial agency agreement) is lower than the statutory minimum salary, extra contributions will also have to be remitted on other agreements (e.g. other mandate agreements) so that the basis for calculating total social security contributions is not lower than the minimum salary. This is aimed at assuring at least a minimum social security coverage, but has resulted in material increase of labour costs in certain industries (such as security and cleaning).
- 3) Starting from 1 January 2016, as long as certain conditions are met, physicians may issue electronic medical certificates to employees. In practice such electronic medical certificates are immediately received by the Social Security Agency and by the employer if the latter has already set up a contribution remitter information profile. Employers who settle social security contributions for at least 6 persons are obligated to have such a profile. Until the end of 2017, medical certificates may be issued both in a printed or electronic form. As from 1 January 2018, only electronic certificates can be issued.
- 4) On 22 February 2016, new regulations came into force as regards fixed-term employment agreements. According to the new regulations, fixed-term employment agreements will have the same termination notices as indefinite-term agreements. The maximum period of employment under fixed-term agreements with one employer is 33 months, and the total number of such agreements may not exceed three agreements. The new regulations provide for very specific circumstances where the foregoing restrictions will not apply. The new regulations also lay down some quite complex transitional provisions.

This information was prepared to advise the Firm's Clients of selected important changes in Polish law and does not represent a legal advice on a specific situation of any Client and should not be treated by Clients as such. Should you have any questions concerning the legal matters outlined above as they may apply to your business in Poland, please contact Mr. Roch Pałubicki (roch.palubicki@skslegal.pl) or the partner in charge of your account.



Proposals of some other changes in labour law

Representatives of the governing party have proposed a range of changes in labour law regulations aimed mainly at strengthening the position of employees and persons employed under civil law contracts. A summary of the most crucial initiatives and announcements is presented below:

- 1) A minimum wage per hour to apply from 1 July 2016 in the amount of PLN 12 for persons rendering work/services to entrepreneurs under mandate or services agreements (including as self-employed). The entrepreneur is obligated, as a rule, to keep records of the number of hours worked by those persons. The State Labour Inspectorate is to have broad powers to control compliance with those requirements. The bill is not yet before Parliament.
- 2) The retirement age is to be decreased; former regulations allowing women to retire at the age of 60 and men at the age of 65 are to be reintroduced. The bill provides that the new regulations would come into force on 1 January 2016; however, legislative works are still pending before Parliament and according to government officials, it is unlikely that the bill will enter into force this year, as no funds have been allocated for early retirement payments in this year's budget.
- 3) Discussions have been held regarding setting the amount of the minimum salary at the level of 50% of the average salary earned in the business sector (now around 45%).
- 4) Exceptions allowing work to be performed on Sundays and holidays are to be limited, including the exception concerning shift work. According to press reports, the government does not envisage any ban on working in retail on Sundays, but some restrictions in this respect are being considered.
- 5) The issue of granting labour inspectors the power to reclassify – by virtue of administrative decisions – civil law relationships between entrepreneurs and individual contractors into employment relationships is again under discussion.



State Labour Inspectorate Program

At the end of last year, the Chief Labour Inspector presented the State Labour Inspectorate's program for the years 2016-2018. During inspections, the State Labour Inspectorate intends to draw special attention inter alia:

- 1) civil law contracts;
- 2) working time;
- 3) employee outsourcing;
- 4) temporary workers;
- 5) compliance with the new rules of entering into and terminating fixed-term agreements;
- 6) the operations of employment agencies and the legality of Polish and foreign citizens' employment;
and
- 7) the health protection of persons who perform work in hazardous conditions.



Roch Palubicki
Partner, attorney-at-law
+48 61 856 04 14
roch.palubicki@skslegal.pl



Karolina Nowotna-Hartman
Attorney-at-law
+48 61 856 04 20
karolina.nowotna-hartman@skslegal.pl