



Labour Law Alert

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Legislative amendments | Significant amendments to the Labor Code

On 7 September 2019, the Act of 16 May 2019 amending the Act - Labor Code and certain other acts came into force.

The amendments pertain to issues of:

- **equal treatment of employees** (change in the definition of discrimination resulting in the introduction of an open catalog of possible causes of discrimination),
- **protection of persons exercising parental rights** (equating the situation of an employee who is a member of the immediate family other than the parent, and who benefits from maternity leave or parental leave with the situation of an employee-father raising a child),
- **workplace bullying** (the employee may also seek damages if he/she has not terminated his/her employment contract as a result of bullying),
- **issuance of work certificates** (including extended deadline for an employee to request an employer to rectify a work certificate and to submit a request for rectification of a work certificate to a labor court from 7 to 14 days; clarification that untimely issuance of a certificate is subject to a fine - current provisions generally indicated "non-certification") and
- **rules concerning consideration of an allegation of limitation of claims under an employment relationship** (limitation of claims under an employment relationship is taken into account only if a person against whom the claim is sought made the charge, and not ex officio).

The above amendments have been presented in detail in the previous newsletter.

Legislative amendments | Enforcement of irreplaceable acts

As of 7 September 2019, Art. 1050 of the Code of Civil Procedure regarding the enforcement of irreplaceable acts has been amended.

Irreplaceable acts are acts which, due to their features, may not be performed by another person on behalf of the debtor (e.g. employer). In the field of labor law, such acts include, for example, drawing up and issuance of a work certificate.

In the current legal status, the court competent to carry out enforcement of irreplaceable acts was the court having territorial jurisdiction over the place where the act was to be performed. This principle was also applied to labor law matters.

According to §11 added to Art. 1050 of the Code of Civil Procedure in matters of labor law, the creditor may submit an application for the enforcement of irreplaceable acts:

- to the court having general jurisdiction over the debtor, or
- to the court having territorial jurisdiction over the place where the work is, was or was to be performed, or
- to the court having territorial jurisdiction over the localization of the work establishment.

As indicated in the explanatory memorandum to the draft amendment - it is to enable more effective enforcement of judgments and to streamline and speed up judicial proceedings.

Legislative amendments | Amendments to the Regulation on reimbursement of remuneration paid to young employees from the Labor Fund

On 1 August 2019, the Regulation of the Minister of Family, Labor and Social Policy, amending the regulation on reimbursement of remuneration paid to young employees from the Labor Fund, entered into force.

The amended regulation governs, among others the employer's option (in the event of a change in the lowest rates of young employees remuneration) within 30 days from the date of entry into force of new rates to apply to the education center competent for the place of the young employee vocational training, directly or through the employers' organization, for amending the agreement regarding the amount of refund for the period from the date of entry into force of the amendment in the level of the lowest young employees remuneration rates.

It is worth mentioning that as of 1 September 2019, following the entry into force of the Regulation of the Council of Ministers of 13 August 2019 amending the regulation on the vocational preparation of young people and their remuneration, there was an increase by 1 percentage point of remuneration rates for young employees undergoing vocational training in the form of apprenticeship as compared to the average remuneration in the national economy.

Legislative amendments | Exclusion of an internship allowance from the minimum remuneration

The Act of 19 July 2019 amending the act on minimum remuneration for work, about to enter into force on 1 January 2020 (Articles 2-4 of this Act on the consequences of impact on the costs of performing a public contract by the contractor to determine or change the amount employee's remuneration due to the failure to include in the amount of the minimum remuneration for the work the internship allowance entered into force on 1 September 2019) introduces the definition of the internship allowance and excludes it from the catalog of remuneration components that are taken into account for calculation of the amount of remuneration of an employee compared with the amount of the minimum remuneration for work.

The purpose of the amendment is to ensure a more just and transparent structure of the minimum remuneration and to improve the situation of employees paid the lowest remuneration rates.

This amendment will directly result in the increase in the actual remuneration of employees who have been earning the minimum remuneration so far with internship allowance included.

Legislative amendments | Increase in the minimum remuneration

On 18 September 2019, regulation on the lowest remuneration for 2020 was announced. As of January 2020 the lowest remuneration is to amount to PLN 2,600 gross. This is an increase by PLN 350 compared to the current lowest remuneration.

The minimum hourly rate related to the lowest remuneration was set at PLN 17.

The announced increase much exceeds earlier government announcements, which assumed an increase in the minimum remuneration to PLN 2,450 gross and an hourly rate to PLN 16.

According to the government's announcements, the minimum remuneration is to increase rapidly in the following years - in 2021 it will amount to PLN 3,000, and in 2023 - PLN 4,000 gross.

Next year, the lowest remuneration will be 49.7 percent the average remuneration in the national economy forecast for 2020.

Notified amendments | Abolition of the limit on retirement and disability insurance contributions

It was announced in the explanatory memorandum to the draft budgetary act for 2020, that the limit on retirement and disability insurance contribution would be abolished.

Currently, pursuant to Art. 19 of the Act of 13 October 1998 on the Social Insurance System (Journal of Laws of 1998, No. 137, Item 887, as amended) the annual basis for assessment of retirement and disability insurance contributions

in a given calendar year may not exceed the corresponding amount of thirty times the expected average monthly remuneration in the national economy for a given calendar year.

The amendment to the provisions abolishing the above limit was recognized in 2018 by the Constitutional Tribunal as unconstitutional due to its incorrect adoption procedure.

Therefore, the real possibility of amending Art. 19 of the Act on the Social Security System and the abolition of the current limit, which will lead to a sudden increase in labor costs and the burden on the part of the highest paid employees, should be taken into account.

Notified amendments | Confusion with the Social Security rates

Recently, the media have published announcements on radical changes in the deduction of social security contributions from business income. The scenarios considered by the government involve:

- full deduction of social security contributions from business income,
- introducing an upper limit on business income from which social security contributions would be deducted,
- introduction of a flat-rate increased social security contribution for persons subject to a flat-rate tax and deduction of social security contributions from full income for persons subject to a tax scale.

The scope of actual changes is yet uncertain, however, entrepreneurs should prepare for a real increase in the social security charges.

According to the draft budgetary act for 2020, the average remuneration in 2020 is to increase from PLN 4,765 (forecast for 2019, according to the amount of contributions set for 2019 applicable to entrepreneurs) to PLN 5,227, i.e. by almost 10%. In practice this would mean that social security contributions paid by entrepreneurs will increase by PLN 127, i.e. By almost 10 percent.

Planned legislative amendments | Amendments regarding contribution to the social benefits fund

On 27 September 2019, a government bill amending the Act on special solutions serving the implementation of the Budget Act for 2019, the Act on the Company Social Benefit Fund and the Large Family Card Act, which provides for an increase in the amount of deductions for the Company Social Benefits Fund, was sent to the President for signing.

The contemplated amendment assumes that the basis for calculating the fund contribution will be in the period from:

- 1) 1 January 2019 to 31 July 2019 - average monthly remuneration in the national economy in the second half of 2013, in the amount of PLN 3,278.14;
- 2) 1 August 2019 to 31 December 2019 - average monthly remuneration in the national economy in



the second half of 2014, in the amount of PLN 3,389.90;

The bill sets 31 October 2019 as the deadline by which the equivalent of additional contributions and increases should be transferred to the bank account.

Planned legislative amendments |

Changes in the ZUS forms

A draft regulation of the Minister of Family, Labor and Social Policy is currently subject to arrangements and hearing opinions, amending the regulation on determining forms of social insurance and health insurance applications, personal monthly reports and personal monthly corrective reports, contributions payer applications, settlement declarations and corrective settlement declarations, reporting data on work in special conditions or of a special nature, information reports, declarations of intention to provide information reports and other documents. The amendments assumed in the draft pertain to:

- personal monthly report on contributions due as well as ZUS RCA benefits paid,
- ZUS DRA clearing statement,
- monthly information for an insured person,
- annual information for an insured person
- codes used for documents completion.

The amendment is intended to adjust documents to changes following from the applicable law. 1 January 2020 is the proposed date for the amendments entry into force.