

Legal Alert

www.skslegal.pl

WHAT'S NEW IN EMPLOYMENT LAW IN 2021?

Increase in the minimum wage

As of 1 January 2021, the minimum wage has increased and it is now **PLN 2,800 gross** per month. This means an increase by PLN 200 compared to the previous year. Starting from the beginning of the year, the minimum hourly rate for persons working based on contracts of mandate or contracts for the provision of services has also increased from PLN 17 to **PLN 18.30 gross**.

Along with the increase in the minimum wage there has been an increase in other benefits related to the employment relationship, which are calculated on its basis. This applies, among others, to:

- **downtime pay** (Article 81§1 of the Labour Code – it may not be lower than the minimum wage)
- **pay for the month in which the employee does not work** due to the working time pattern in the adopted settlement period (Article 129 § 5 of the Labour Code – the employee is entitled to remuneration in the amount not lower than the minimum wage)
- **night work pay** (pursuant to Article 151(8) § 1 of the Labour Code, an employee who works at night is entitled to an extra pay for each hour of work at night in the amount of 20% of the hourly rate resulting from the minimum wage)
- **the minimum value of the compensation** to which an employee subjected to harassment is entitled (Article 94(3) § 4 of the Labour Code)
- **the minimum value of compensation** to which an employee is entitled in relation to whom the principle of equal treatment in employment was infringed (Article 18(3d) of the Labour Code).

Pursuant to the provisions of the Act on special principles of termination of employment relationships with employees for reasons not related to employees, **the maximum amount of severance pay may not exceed the amount of 15 times the minimum wage**. In 2021, this will therefore be **PLN 42,000**.

However, it should be remembered that the Anti-Crisis Shield has introduced limitations according to which, as

long as the state of epidemic threat or the state of epidemic continues, the amount of severance pay, compensation or other financial benefit paid in connection with termination of an employment contract may not exceed 10 times the minimum wage. Only those undertakings that have been significantly affected by the COVID-19 pandemic will be able to benefit from this limitation.

The increase in the minimum wage also has an impact on the increase in the amounts free of deductions.

Obligation to notify contracts for a specific work

Starting from 1 January 2021, the remitter of contributions or natural person commissioning a specific work is required to inform the Social Insurance Institution (ZUS) about the conclusion of every contract for a specific work if:

- that contract has been concluded with a person with whom the remitter or natural person does not have an employment relationship, or
- under such a contract, the person does not perform work for the benefit of the employer with whom he or she remains in an employment relationship ("work for the benefit of" would take place when, despite the conclusion of a contract for a specific work with a third party, it is the employer that would be the actual beneficiary of the results of that work)

Notification of a contract for a specific work is made by means of the RUD application form within 7 days of its conclusion. The form may be submitted electronically via the Electronic Services Platform PUE ZUS. The introduction of this obligation will enable the Social Insurance Institution to keep records of the above contracts. The obligation to notify a contract is not tantamount to payment of social security contributions on account of that contract.

On this occasion, it is worth reviewing contracts for a specific work to check whether, in each case, the object of such a contract does in fact indicate the performance of a specific work, or instead meets the conditions for performance of a mandate.

Remote work

The COVID-19 pandemic has resulted in more and more employers deciding to introduce remote working in their workplaces. Unfortunately, so far the performance of work in the home office mode has not yet been regulated in the Labour Code, and the solutions proposed in the Anti-Crisis Shield are only of an ad hoc nature. As the pandemic continues unabated, there is no doubt that remote work will stay with us for longer, and therefore it requires comprehensive regulation. When can employers expect this issue to be settled?

According to press information provided by the Labour Ministry to the Polish Press Agency (PAP), legislative work in this respect is already underway. The Ministry expects that consultations with the social partners on the amendment will be completed in the first quarter of 2021. It follows from the statements of the Ministry that the provisions will be constructed in a way general enough to allow remote working to be largely regulated by an agreement concluded between the employer and the employee.

Can the employer require workers to get vaccinated against COVID-19?

The commencement of the national COVID-19 vaccination programme has led more and more employers to wonder what impact vaccination will have on the functioning of workplaces. The Labour Code indicates a general obligation of the employer to provide safe and hygienic work environment for workers. Does this mean that an employer will be able to require vaccination of its employees? Can the vaccination requirement be one of the criteria for deciding whether to hire a job candidate? Can non-vaccinated workers be restricted in any way in their movement within the workplace? Since there are many doubts regarding this topic, we can expect that this issue will also be regulated by the legislator in 2021.

Audits related to the use of the instruments of the Anti-Crisis Shield

Another issue that will require attention in 2021 will be the audits related to accounting for the instruments used by employers within the framework of the Anti-Crisis Shield.

The National Labour Inspectorate (PIP) has announced that in 2021 the Labour Inspectorate intends to carry out 52 thousand audits. According to the announcements, the inspectors will verify whether employers have provided safe and hygienic work environment for employees during the coronavirus pandemic, and whether employers have used the instruments that were introduced by the provisions of the Anti-Crisis Shield, e.g. those concerning working time, in accordance with the law.

In addition, employers that have received aid from the Provincial Labour Offices and the Social Insurance Institution will have to take into account the necessity to undergo an audit to check whether the funds received have been used in accordance with the law.



Contact us

Agnieszka Fedor

Partner, attorney-at-law

☎ +48 608 71 50

✉ agnieszka.fedor@skslegal.pl



Aneta Brzózka

Junior Associate, attorney-at-law

☎ +48 883 391 693

✉ aneta.brzozka@skslegal.pl