

Newsletter HR

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Minimum salary increase in 2022

The Council of Ministers has announced a regulation on the minimum salary. From 1 January 2022 the minimum salary will amount to **PLN 3,010 gross** and the minimum hourly rate will increase to **PLN 19.70 gross**.

It is worth remembering that along with the increase in the minimum salary there will be an increase in other benefits calculated on its basis. This applies, among others, to:

- severance pay under the Act on special rules for termination of employment relations with employees for reasons not related to employees (in 2022 the maximum statutory amount of severance pay will be PLN 45,150);
- minimum amount of salary for downtime;
- salary for the month in which the employee does not perform work due to the work time schedule in the adopted settlement period;
- allowance for work at night time;
- the minimum compensation for an employee who has been subjected to harassment or where the principle of equal treatment in employment has been infringed.

Draft act on the protection of persons who report breaches of law

The objectives of the draft act on the protection of persons who report breaches of law have been published by the Chancellery of the Prime Minister. The proposed act aims to implement Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of so-called whistleblowers.

The act is intended to grant protection to whistleblowers, i.e. persons making disclosures of information or reasonable suspicions of a breach of law. Whistleblowers will be protected regardless of the basis and form of cooperation (among others employees and persons cooperating under civil law contracts). Moreover, protection will be extended to individuals whose employment relationship has ended or is yet to be established if they became aware of violations during the recruitment process.

The possibility of being exposed to any harm or possibility of being charged due to making a report or making a public disclosure under the principles set out in the act would be excluded. The legal position of the whistleblower will be significantly strengthened in potential court proceedings by reversing the burden of proof and shifting it to the employer.

With respect to civil law contracts, the draft even provides for the sanction of ineffectiveness of a legal action involving termination of a legal relationship because of a whistleblower's report.

In addition, there are plans to sanction the invalidity of provisions of employment agreements and other internal acts as well as civil law actions to the extent that they exclude or limit the right to make a report.

The status of a whistleblower will be awarded to a person who has made a relevant report in accordance with the principles set forth in the act (i.a. in compliance with the statutory procedure; the reporting person should also have reasonable grounds to believe that the information reported is true). The whistleblower will be able to monitor whether the report has been appropriately responded to.

Reporting will be done through:

- internal reporting channels established by private and public entities,
- external reporting channels to relevant state authorities,
- public disclosure.

The reporting procedure will be an internal legal act. Its content will be subject to consultation with company trade unions, and in the absence thereof – with employee representatives. The employer will be required to ensure proper organization of the receipt and verification of reports and to protect the confidentiality of the identity of both the person making the report and the person to whom it relates.

The establishment of internal reporting procedures will be mandatory for entities with at least 50 employees. Additionally, entities operating in the financial sector (such as banks and insurance companies) will be required to establish internal whistleblower channels regardless of whether they operate in the public or private sector and regardless of the number of employees. For other entities, the establishment of internal channels for reporting will be optional.

In addition, the proposed act will regulate in detail the issues of reporting outside the workplace, i.e. external channels of reporting to the relevant state authorities, as well as public disclosure.

At this stage we only know the general objectives of the draft. The date of adoption of the draft itself by the Council of Ministers is planned for the fourth quarter of 2021.

Will it be easier to employ foreigners?

The Chancellery of the Prime Minister has also published objectives of the draft act on amending the act on foreigners and certain other acts. The planned changes are aimed at streamlining the proceedings concerning the granting of temporary residence permits for foreigners, and in particular the temporary residence and work permits.

According to the main objectives of the draft, which have been published, a foreigner applying for a temporary residence and work permit will not need to have an assured place of residence and a source of stable and regular income. The existing requirements will be replaced by a principle according to which a foreigner will not be able to receive remuneration lower than the minimum salary for work, regardless of the working time and basis of cooperation.

The catalogue of circumstances that do not require a change of the temporary residence and work permit will be extended. Also, solutions will be introduced to accelerate legalization of work and stay of foreigners intending to perform work with entities of particular strategic importance for the Polish economy.

The draft act was not yet published, at this stage we only know the above, general objectives.

New act on mutual assistance and loan funds

On 11 October 2021 the Act on mutual assistance and loan funds (“Act”) will come into force. The Act sets forth the rules for establishing, organizing and operating a mutual assistance and loan fund (“MALF”). The Act will replace the provisions currently regulating the functioning of the MALF.

Summary of the most important changes:

- it would be possible to establish a MALF not only by employees, but also by persons performing work based on other legal grounds (civil-law relation);
- in the absence of a company trade union organization, the control over MALF is exercised by the works council, and in the absence of the council - by the representation of persons performing work, selected in accordance with the procedure adopted at a given employer;
- one MALF may operate with one employer.

Moreover, the provisions concerning i.a. the following issues have been made more precise:

- cases of striking off a MALF member from the list of MALF members;
- the principles of granting loans or financial aid;
- principles of making settlements in case of MALF liquidation.

Funds operating under the current regulations will have to adjust their operations to the new regulations within 18 months from the Act’s entry into force.

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