

# Newsletter HR

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## Expected amendments to the labor law in 2022

### An increase in the minimum wage and projected average wages

As of 1 January 2022 the minimum wage will amount to **PLN 3,010** before taxation, while the minimum hourly rate will increase to **PLN 19.70** before taxation. This means an increase of the minimum wage by PLN 300 and the minimum hourly rate by PLN 1.40 compared to 2021.

We should remember that along with the increase in the minimum wage there will be an increase in other benefits calculated thereon. This applies, among others, to

- **remuneration for work stoppage**, not be lower than the minimum wage;
- **remuneration for the month, when the employee does not perform work due to the schedule of working time in the assumed settlement period** (also this amount may not be lower than the minimum wage);
- **a bonus for night work**, amounting to 20% of the hourly rate resulting from the minimum wage;
- **severance allowance** under the Act on special rules for termination of employment relationships for reasons not attributable to employees (in 2022 the maximum statutory amount of severance allowance will be PLN 45,150);
- **the minimum amount of compensation to which an employee is eligible when the principle of equal treatment in employment was violated** (Article 18(3d) of the Labor Code);

Additionally, the amount of the projected average monthly remuneration before taxation in 2022 has been determined at **PLN 5,922**.

### Deduction from pay for the Company Social Benefits Fund in 2022.

The amount of the deduction from pay in 2022 will be calculated on the basis of the average monthly salary in the second half of 2019, equal to PLN 4,434.65.

Meaning that the amount of the deduction from pay calculated on this basis will be respectively:

- **PLN 1,662.97 (37%)**- for an employee working in normal working conditions,
- **PLN 2,217.29 (50%)**- for an employee working in special conditions or of a special nature.

### Further changes in social insurance

The new year will bring in force further changes introduced by the September amendment to the Act on Social Security System and certain other acts.

#### 1. Shortening of the benefit payment period

The period for sickness benefit payment after termination of insurance gets reduced to 91 days. The benefit period after the insurance expiry will not include incapacity to work during the insurance term.

The benefit payment period will include:

- periods of uninterrupted incapacity to work, and
- periods of incapacity to work which occurred before/after an interruption, if the interruption does not exceed 60 days and if the incapacity to work does not concur with pregnancy.

#### 2. Limitation on submission of corrections

The payer will be able to submit corrections of billing documents only during 5 years from the contribution due date. The deadline will not be affected by circumstances suspending or interrupting the period of limitation for due contributions. After the 5-year period expiry, corrections of billing documents may be drawn up by ZUS only ex officio.

#### 3. Entitlement to sickness benefits

An insured person will continue to be insured even if their sickness contribution is paid after the deadline or if they do not pay it at all. In the case of a debit on contribution account in an amount exceeding a specified limit (1% of the minimum remuneration) until the debt is paid off, the insured will not receive sickness benefits, rehabilitation benefits, care benefits or maternity benefits. Failure to pay due contributions within 6 months will make the entitlement to the said benefits time-barred.

#### 4. Amount of sickness benefit

The sickness benefit paid for a period of hospitalization will change. The benefit will be raised to 80% (before it was 70%). Benefits and rehabilitation allowances subject to eligibility arising before 1 January 2022 will be paid for the whole period of continuous incapacity to work according to the rules applicable before the amendment.

#### 5. Entitlement to maternity benefit after expiry of the insurance eligibility

Maternity benefit and a benefit equivalent to maternity benefit paid until the day of childbirth will also be payable to female employees who have lost the entitlement to sickness insurance due to the death of their employer.

#### 6. Review of the benefit assessment

The contribution payers will be obligated to review the benefit assessment basis if a break between the periods of collecting benefits is longer than a month.

#### 7. Debited contribution account

Benefits due for an accident at work or occupational disease will not be granted until the entire debt has been paid off, if the contribution overdraft exceeds 1% of the minimum wage.

### The Polish Deal - employees employed illegally will not be held responsible for it

As of the new year, only employers will be liable for the consequences of illegal employment. Employers hiring illegal workers will be subject to a tax for illegal employment, including on wages paid to the employee "cash in hand under the table". The employer who has illegal workers will be obliged to pay all social insurance contributions and health insurance contributions on salaries of illegally employed persons. Both the paid remuneration and the contributions will not be deductible for employers. Such steps are aimed at counteracting illegal employment, a manifestation of unfair competition on the labor market.

### Changes in the catalogue of offences against employees (Article 281 §2 and Article 282 §3 of the Labor Code)

The regulations on punishment of employers who improperly hire employees disclosed in the National Debtors Register (NCR) will be amended. As of 1 January 2022, employers will be able to check whether a job applicant or employee is a paying parent.

Employers who will not confirm in writing the employment contract concluded with an employee against whom maintenance payments are being enforced or who is defaulting on payments for a period longer than 3 months, may be subject to a fine from PLN 1,500 to PLN 45,000.

A similar penalty will be imposed on employers who fraudulently pay a remuneration higher than specified in the employment contract and do not make deductions to cover maintenance payments on behalf of an employee disclosed in the NCR.

### Work-life balance Directive

In 2022, the Labor Code will be subject to amendments due to the obligation to implement the EU EP and Council Directive (EU) 2019/1158 on work-life balance for parents and legal guardians.

#### What amendments may be expected?

- The rules of using a parental leave will be amended, mainly meaning that half of the leave will not be transferable to the other parent;
- 5 days off a year as a filial leave;
- More flexible working hours for working parents.

At the moment the draft law in this respect has not been published. Poland must implement the Directive until August 2022.

### Law on protection of whistleblowers

The deadline for implementation of the Whistleblower Protection Directive expires on 17 December 2021, but we are still not sure whether the act will come into force in due time. In mid-October this year, the draft law was put on the list of legislative works agenda and is still at the stage of collecting opinions.

A person reporting a violation according to the principles strictly set out in the act will be awarded the status of a whistleblower. The whistleblower procedure will be an internal regulation whose 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 acceptance and verification of reports and the protection of confidentiality.

The establishment of internal notification procedures will be mandatory for entities having at least 50 employees. Employers will have to comply with the new regulations until December 2023. Additionally, entities operating in the financial sector (such as banks or insurance companies) will be required to establish internal whistleblowing channels. The establishment of internal whistleblowing channels will be optional for other entities.



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