

Summary of changes in labour law

The end of the year is fast approaching, which means that it is time for summaries. The passing year 2023 is correctly referred to as the year of changes in labour law, as it brought several amendments to the Labour Code and other laws.

Please find below an overview of the key amendments that took place in 2023.

The cancellation of the state of epidemic risk

After more than three years of the epidemic state and the state of epidemic risk, the last one was canceled in the middle of the current year, on 1 July 2023. During the pandemic, employers were given a number of tools to facilitate employment, so the cancellation of the epidemic state and the state of epidemic risk brought a number of changes, including:

- the possibility of granting an employee unused vacation leave in previous years out of the leave plan, and conducting initial health and safety training remotely was abolished;
- employers were given 180 days to conduct outstanding health and safety training and refer employees for medical examinations;
- restrictions in the amount of severance pay, compensation or other financial benefit paid in connection with the termination of the employment contract, no longer apply;
- the validity period of work permits for foreigners whose residence permits expired during the pandemic were extended to 30 days following the end of the epidemic risk.

Sobriety control

On February 21, 2023, regulations on employee sobriety control went into effect. The amendment allows employers to perform preventive sobriety control of employees in order to protect the life and health of employees and other persons, or to protect property. In order to exercise this right, employers are required to specify the rules for sobriety control in work regulations, a collective bargaining agreement or a notice, and to inform employees of the introduction of these rules at least two weeks in advance.

In addition, there was added to the Labour Code an obligation not to allow an employee to work if (i) a sobriety check reveals the presence of alcohol in the employee's body which indicates a state of drunkenness or a state of intoxication, or a drug acting similarly to alcohol, and (ii) there is a reasonable suspicion that the employee came to work in such a state or consumed alcohol or took another drug acting similarly to alcohol during working hours

Remote work

The regulation allowing remote work at the employer's order was a temporary solution, introduced for the duration of the epidemic state and the epidemic emergency. The state of epidemic emergency was revoked in the middle of the past year, but before that happened the legislature decided to introduce remote work permanently into the Labour Code. The new regulation in this regard came into force on 7 April 2023.

Currently, remote work can be performed (i) after it is agreed upon either on the initiative of the employer or at the request of the employee, (ii) on the order of the employer, or (iii) as part of occasional remote work.

Remote work can be arranged either at the conclusion of the employment contract or during the course of employment, and can be performed remotely entirely or partially. An important element of remote work is the employee's designation of the place of such work and its agreement with the employer. As a reminder, the place of remote work can change or there may be several, but each time it must be agreed with the employer. The employer is required to establish the rules for remote work:

- in an agreement concluded with trade unions,
- in regulations issued after consultation with employee representatives,
- in an agreement concluded with the employee,
- in an order to perform remote work.

There is also an obligation for the employer to grant a remote work request from an employee belonging to a special category that includes, among others, pregnant employees or employees raising a child under the age of 4. Refusal to grant the request of such an employee is possible only if performing remote work is not possible due to the particular organisation of work or the type of work.

The employer may also issue an order to perform remote work in emergency situations, i.e. during a state of emergency, a state of epidemic emergency or a state of epidemic (and for a period of 3 months after their cancellation), or during a period of temporary inability to ensure safe and hygienic working conditions due to force majeure. The instruction to work remotely is subject to the employee's declaration that he or she has suitable premises and technical conditions that allow remote work.

Occasional remote work may be performed for a maximum of 24 days in a calendar year, and its performance does not require the establishment of rules for the performance of remote work, the provision by the employer of tools and materials for the performance of such work, or the coverage of the costs of its performance.

Implementation of two EU directives

On 26 April 2023, another amendment to the Labour Code went into force in order to implement two EU directives: the directive on transparent and predictable employment conditions, and the so-called work-life balance directive.

Changes implementing the directive on transparent and predictable employment conditions included, in particular:

- introduction of changes to the conclusion of probationary employment contracts regarding their duration and content;
- expanding the content of information on terms and conditions of employment to include, among other things, information on work breaks, daily and weekly rest, rules on overtime work, rules on termination of the employment relationship, the employee's right to training;
- allowing an employee who has been employed for at least 6 months to request a change in the type of employment contract to a permanent contract, or more predictable and safer working conditions;
- extending the obligation to indicate the reason justifying the termination or termination of the contract also to fixed-term contracts.

Changes implementing the so-called work-life balance directive included, in particular:

- the introduction of an additional break of at least 15 minutes when an employee's daily working hours are longer than 9 hours, and another break of at least 15 minutes when an employee's daily working hours are longer than 16 hours, included in working time;
- introduction of the right to force majeure leave of 2 days or 16 hours in a calendar year;
- introduction of the right to unpaid care leave of 5 days per calendar year;
- introduction of an exclusive right to 9 weeks of parental leave for each parent, so that the overall length of parental leave has also been increased by 9 weeks (to 41 and 43 weeks, respectively);
- introduction of the right for an employee raising a child until the child is 8 years old to apply for flexible work arrangements, which are understood to include remote work, reduction of full-time hours and individual work schedules.

Increased employment guarantee for specially protected employees

On 22 September 2023, an amendment to the Code of Civil Procedure went into force, according to which protected employees gained a greater employment guarantee. The amendment provides new protections in cases in which an employee subject to special protection against termination with or without notice (i) pursues a claim for declaring termination ineffective or (ii) seeks reinstatement.

According to the amendment, if an employee submits a request for security in the aforementioned cases, the court will grant security in the form of continued employment of the protected employee until the proceedings have become final. The increased employment guarantee applies to all employees subject to special protection, i.e. union activists, pregnant employees, employees taking parental leave or pre-retirement protection.

New requirements for occupational health and safety

On 17 November 2023, an amendment to the Ordinance on occupational health and safety at workplaces equipped with screen monitors came into force. Workstations of employees using laptops for at least half of the daily working hours must be supplemented with:

- a desktop monitor or stand that allows the screen to be positioned so that its top edge is at eye level, and
- an additional keyboard and mouse.

The new regulations also make it mandatory to equip, at the employee's request, a workstation with a footrest. Employers have until 17 May 2024 to adapt their workstations to the new requirements. In addition, the existing obligation to reimburse employees for corrective glasses has also been expanded to include reimbursement for contact lenses.

Contact us:



Agnieszka Fedor
Partner, attorney-at-law
☎ +48 505 782 677
✉ agnieszka.fedor@skslegal.pl



Maja Górawska
Junior Associate
+48 881 023 585
✉ maja.gorawska@skslegal.pl



Alla Pecheniewa
Junior Associate
+48 883 391 721
✉ alla.pecheniewa@skslegal.pl

