

Important changes to labor laws are on the way

I. Remote work to be regulated in the Labor Code

The Labor Code will define remote work as work performed in whole or in part at a place indicated by the employee and agreed with the employer, including at the employee's residence address, in particular with the use of direct remote communication. Employers will have to grant remote work requests made by pregnant employees and employees with children under the age of 4 (unless not possible due to the organization or nature of the work performed by the employee, e.g. uniformed services). This solution will also apply to: an employee who takes care of another close family member or another person living with him, who has a certificate of disability or significant disability; employee - parent of a child who has a certificate of severe and irreversible handicap or an incurable life-threatening disease that arose in the prenatal stage of the child's development or during childbirth; employee - parent of a child who has a certificate of moderate or significant disability; employee - parent of a child who has been issued an opinion of special educational needs.

II. Employers to get a right to perform sobriety checks

Under the new regulations, employers will also be able to test their employees for the presence of alcohol or other similarly acting substances. Such testing will be possible when necessary to protect the lives and health of employees or others, or to protect assets. Where an employee is found to be under the influence of alcohol or another similar substance, the employer will be required to prevent the employee from performing work. The same will apply if there is a reasonable suspicion that the employee has come to work under the influence of alcohol or a similar substance, or consumed alcohol or such substances at work. The police will also be able to test employees for alcohol or similarly acting substances.

III. There is to be additional force majeure leave

Changes incorporating into the Labor Code the provisions of the EU Work-Life Balance Directive (Directive 2019/1158) and Directive 2019/1152 on transparent and predictable working conditions in the European Union (UC118) are also expected to be implemented this year. The amendments were to be implemented as of 1 August, but are likely to go into effect later (the related consultations are nearing completion). One of the proposed solutions is the right to time off on account of a force majeure. To this end, Article 1481 is to be added to the Labor Code, under which an employee will be eligible for 2 days or 16 hours off per calendar year due to a force majeure, in urgent family matters caused by illness or accident, if the employee's immediate presence is necessary, at half the remuneration. The employer will be required to grant such leave on demand and on the day indicated by the employee, who must make the request no later than on the day of the intended leave.

The coming months will bring numerous important changes to both the Labor Code and to other labor related regulations. They will cover issues related to remote work, sobriety checks and probationary contracts, as well as those associated with whistleblower protection or gender equality reporting on employment conditions and wages.



IV. Changes to be made in probationary period contracts

After the implementation of the new regulations as part of draft UC118, it will still be possible to conclude probationary period contracts as before for a maximum period of no more than 3 months, but their duration will depend on the period of the employment contract to be concluded after the end of the probation period. Probationary period contracts will not exceed: 1 month - if the intended contract of employment is to be concluded for a fixed term of less than 6 months; 2 months - if the contract of employment is to be concluded for a fixed term of 6 months, but less than 12 months; 3 months - in other cases. The parties will be able to extend a probationary period contract by the period of annual leave and other excused absences, as well as to extend it once by no more than 1 month if justified by the nature of the job.

V. Employment contracts to include new information

The new regulations call for changes in the components of employment contracts. In addition to the data that are already required, employment contracts will also have to include the registered place of business of the employer. The current work commencement date will be replaced by the day (exact date) of work commencement. New components will also be added to probationary period contracts. And so a probationary period contract will have to include its duration or end date and, if the parties so agree, a stipulation to extend the contract by the time of annual leave and the employee's excused absences, if any. It will also be necessary to list the period for which the parties intend to conclude a fixed-term contract after the probationary contract, or to extend the contract if this is justified by the nature of the job. Fixed-term contracts will have to list their duration or end date. Employees will also have to be informed of the terms and conditions of employment no later than within 7 days of admission to work. Employers will also have an obligation to provide reasons for termination of the fixed-term contract.

VI. Two significant minimum wage increases in 2023

There will be two minimum wage increases in 2023. The first will occur as of 1 January 2023, and will raise the gross minimum wage from the current PLN 3010 to PLN 3490 (up by PLN 480). The hourly wage will go up from PLN 19,70 to PLN 22,80. The second increase will take place as of 1 July 2023, when the gross minimum wage will go up to PLN 3600 (i.e. by another PLN 110). As of July, the hourly wage will amount to PLN 23,50. In total, the minimum wage will go up by PLN 590 compared to 2022. Right now the net minimum wage amounts to PLN 2363. After the first hike it will amount to around PLN 2700, and after the second to approximately PLN 2780.

VII. The government to raise employee business travel allowance rates

The government is also planning to change business travel allowance rates. As of January 2023, the per diem allowance for domestic trips is to increase from PLN 38 to PLN 45; the allowance for overnight accommodations from PLN 57 to PLN 67,50; and the allowance for local public transport from PLN 7,60 to PLN 9. Documented costs of overnight accommodations will be refunded based on the amount indicated on a bill, no higher however than twenty times the daily rate, i.e. PLN 900 (currently PLN 760). Foreign allowance rates will also change, but not for every country. These rates apply primarily to the public sector. Although the private sector can set its own rules, the allowances are exempt from PIT only up to the limits that apply in the public sector.



VIII. The important for employers whistleblower law still in the works

The government's legislative work agenda still includes the constantly changed bill on the protection of those who report violations of the law (UC 1010). The bill is to implement into the Polish legal system Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law. The draft bill will protect those who report or disclose information or reasonable suspicion of a breach of law, who work in the private or public sector and have acquired information on the breach in a work-related context. The guarantees and legal measures provided for in the bill will be extended to reporting persons irrespective of the basis or form of work (including employment contract, civil law agreement, self-employment, managerial contract, voluntary work, internship and apprenticeship), including those who provide work to entities with whom the employer has an economic relationship, such as contractors, subcontractors or suppliers, as well as to other persons who report breaches in a work-related context, such as shareholders and partners and members of a legal entity's body. Protection will also apply to reporting persons whose work relationship has ended or is yet to begin in cases where information on breaches has been acquired during the recruitment process prior to contract conclusion. Notably, the deadline for the implementation of the Directive into the Polish legal system passed on 17 December 2021.



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IX. There will be a gender equality and equal pay directive

As of 2024, in their financial statements companies will have to report not only on their approach to environmental protection and impact on climate change, but also on such matters as gender equality and equal pay. These are changes that will be introduced by a new directive (amending several other EU directives) on sustainability reporting. The directive would apply to business reports for financial years beginning on 1 January 2024 (largest companies), 2025 (other large companies) and 2026 (smaller listed companies). Small, medium and micro businesses would not be required to apply the directive, but will be able to choose to do so voluntarily.

TO LEARN THE DETAILS OF THE ABOVE CHANGES AND FIND OUT HOW TO IMPLEMENT THEM AT YOUR COMPANY – WE INVITE YOU TO TAKE PART IN THE TRAINING COURSES OFFERED BY BDO ACADEMY

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