



Amendments to the labour law introduced in 2017

The year 2017 brings a number of amendments to the labour law, which pertain to different areas and, to some extent, materially modify solutions that have existed unchanged for years.

Below, we present a short description of the key changes and their most important implications for employers.

1. Exempting small entrepreneurs from the obligation to introduce internal regulations on work and remuneration and from the obligation to establish a social benefit fund

Companies employing less than 50 people have been released from the obligation to introduce internal regulations on work and remuneration and to establish a social

benefit fund. Previously this threshold was set at the level of 20 employees. The amendment applies prospectively and therefore does not influence regulations that have been introduced earlier.

2. Simplifying principles of issuing employment certificates

Currently, the obligation to issue an employment certificate in case of a fixed-term employment arises only:

- after termination or expiry of an employment contract, if the employer does not intend to continue the

employment, or

- when an employee requests an employment certificate with regard to already completed employment relationships (e.g. a probation period or a previous fixed-term contracts), although his/her employment is being continued. New solutions will apply to fixed-term contracts (including probationary contracts) concluded after 1 January 2017 and before that date, if they remain in force as at 1 January 2017.

As regards fixed-term employment relationships that ended on or before

1 January 2017, in case of employment certificates that have not been issued and the 24-month period provided for their issuance has not expired, employers have time to do so until the end of June 2017. However, if an employee requests an earlier issuance, a relevant certificate must be issued immediately.

3. Contents of an employment certificate

A new ordinance of the Minister of Family, Labour and Social Policy on an employment certificate (of 30 December 2016) has entered into force as of 1 January 2017. It expands the scope of information that should be disclosed in an employment certificate, e.g. including information about the use paternity and parental leave. The amendment applies prospectively. Companies should adjust their template employment certificates to the new requirements.

4. Agreements on joint liability for damages invalid if not concluded in writing

New regulations explicitly provide for invalidity of agreements on joint liability for damages suffered by a company, if not concluded in writing. Up to date invalidity of verbal agreements has been accepted in practice, although the statutory regulations did not include specific regulation in this respect. As a result, the recent amendment does not appear bring any material practical effect

5. Equalising and extending the time to file an appeal against employment termination

Time for employees to file an appeal to a labour court against termination upon a notice and immediate termination without a notice has been equalised and extended to 21 days. Before 2017 it was 7 days for termination upon a notice and 14 days in case of a termination without a notice.

The amendment applies both to termination letters served after 1 January 2017 and to those served in December 2016, if the time to file an appeal has not expired before 1 January 2017.

6. Minimum salary increase

The minimum salary amounts to PLN 2,000 (approx. EUR 460) as of 1 January 2017. Employers should review their remuneration policies in this respect. Newly concluded contracts should include the amendment. Contracts concluded earlier and providing for a lower amount will be amended by operation of law, if not amended by the parties. Other benefits for employees the amounts of which have been linked with the minimum salary, e.g. a night-time allowance, will also be higher this year. Also the cap on the statutory redundancy pay will be increased to PLN 30,000 (approx. EUR 6,900).

7. Equalisation of minimum salaries regardless of employment history

As of January 2017 there is no longer an option to offer employees a salary lower than the statutory minimum in their first year of employment. The provision allowing for that has been cancelled. Employers should review their remuneration policies in this respect. Newly concluded contracts with people entering the employment market should include the new minimum. Contracts concluded earlier and providing for a lower amount will be amended by operation of law, if not amended by the parties.

8. Minimum hourly rate for contractors

Save for some statutory exceptions, a minimum hourly rate for contractors has been introduced as of January 2017 in the amount of PLN 13 (approx. EUR 3). Remuneration determined in contracts of mandate should be paid in cash at least once a month. Moreover, contractors will not be allowed to waive their right to the fee resulting from the minimum hourly rate. Companies employing staff on the basis of contracts of mandate or service agreements should verify whether any changes in their remuneration policies are necessary and include the minimum hourly rate in the concluded contracts. The State Labour Inspectorate will enforce compliance with the new regulations.

9. Recording the contractors' working time

Companies are also obliged to record working time of their contractors. The recording manner should be provided for in service agreements. Otherwise, contractors will be allowed to record working time at their discretion. This obligation applies both to newly concluded agreements and to those concluded before 1 January 2017.

10. Penalty for not observing the act on remuneration cap in public sector companies

The new act on remuneration cap in public sector companies (effective as of 9 September 2016) has been amended and as of 1 January 2017 treats persistent failure to comply with remuneration principles provided for therein as a punishable offence. This applies to cases when the obliged party (in general, a representative of the State Treasury or of a local government body) fails to introduce new solutions. Such a person should not be held liable if, despite his/her attempts, a resolution adjusting remuneration terms to the new requirements has not been passed. In principle, relevant compliance procedures should commence before 30 June 2017 in companies whose financial year is the calendar year.



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