

Wiewiorski Law Firm was established in 2004 and in the past few years it has become one of the biggest law firms in Wrocław. We provide advisory services for the largest investors operating in Wrocław Agglomeration and a few dozen smaller entrepreneurs from Lower Silesia and other parts of Poland.

WIEWIORSKI LAW FIRM



GENERAL INFORMATION ON THE POLISH LABOUR LAW

A. Legal Framework

- Basic act regulating employment in Poland: Act of 26 June 1974 - the Labour Code.
- A number of other Acts and ordinances to the Acts regulate more specifically various aspects of employment. In particular, health and safety at work are specifically regulated.
- Basically, work is performed on the basis of the employment contract. The provisions of the contract may not be less advantageous to the employee than the provisions of the binding law and employer's internal labour regulations, in particular employment regulations, compensation regulations and collective labour agreements.
- The employer and trade unions may enter into the collective labour agreement.
- The Polish law regulates the organisation and rights of the trade unions, which may be established only upon the employees' motion. The rights of the trade unions are mainly of consultative nature. A consent of the employees' representatives may be required in a limited number of situations for implementing solutions differing from the standard labour laws or when determining rules of remuneration.
- The Polish law regulates European Works Councils and Employee Councils. If the criteria provided for by law are fulfilled, the employer is obliged to take an initiative for their creation. Both bodies are of consultative nature only. Further consultations with the employees' representatives are required for matters relating to health and safety at work, working-time and social matters.
- There are authorities appointed to ensure that labour laws and working conditions regulations are complied with – State Labour Inspectorate and State Sanitary Inspectorate.
- The Polish law regulates temporary work and the services of the employment agencies.

B. Employment contract

- The parties may conclude the employment contract for: indefinite or definite period of time, for completion of a specific task, for a trial period. There is also a special type of a fixed-term employment contract, if the employer intends to substitute another employee during his/her absence.
- The employment contract has to specify numerous details. The most important are: remuneration, work position, place of work, working time, work commencement date.
- The remuneration specified in the contract may not be lower than the minimum salary. From January 1st 2013 the monthly minimum remuneration for a full-time employee amounts to PLN 1,600 gross, and will increase to 1,680 gross starting from January 1st 2014.

- Every contract may be terminated by mutual consent of the parties. The contract concluded for an indefinite period of time or for a trial period (in some cases also the contract concluded for a definite period of time) may be terminated by each of the parties with notice, with observance of the notice period. The employer needs to justify the reasons for termination of the contract concluded for an indefinite period of time, and the labour court is authorized to control the above reasons, as well as the compliance of the termination with the law in force, if the employee appeals against the termination. The Labour Code provides the list of situations where the employee or the employer may terminate the contract without observance of the notice period.
- Under the Labour Code the notice period varies from three days up to three months depending on the type and duration of the employment contract.
- Should the employer terminate the employment contract for the reasons not relating to the employee (for economic reasons, in particular), he may be obliged to pay the severance payment and follow the group lay-offs procedure.
- The employer may not (with some exceptions) change the employee's employment conditions (remuneration, in particular) without following the procedure similar to the procedure of terminating the employment contract.

C. Working time

- The Polish labour law does not specify the number of hours that each worker has to work during the year. The law specifies that each worker employed on a full-time basis should work for – on average – 40 hours per week and – on average - 5 days per week. The average is calculated as per settlement period. The settlement period normally amounts to from 1 to 4 months, however, it is also allowed to extend the settlement period up to 12 months by way of agreement concluded with employee's representatives, provided that such extension is justified by objective or technical reasons, or by the organization of work. Sundays and public holidays are normally days off, however work on Sundays and public holidays is permitted under certain conditions. Each employer has to plan the work with consideration of the above work time limits and dates of statutory holidays.
- Working time should be scheduled within the framework of working time systems set forth in the provisions of the Labour Code. As a result of the amendments effective as of 23 September 2013, provisions governing organisation of working time provide for more flexible solutions.
- Work exceeding 8 hours per day is (with some exceptions) overtime work. The employer has to pay additional benefits for overtime, and the number of overtime hours is limited. The employee is entitled to at least 11 hours undisturbed rest in a 24-hour day and 35 hour undisturbed rest in a week. The above rest periods may be shortened in some specific situations. The maximum number of overtime hours per year (to be agreed in the collective labour agreement, internal employment regulations or the employment contracts) amounts to approximately 400 hours.
- The Polish labour law limits work at night and in hazardous conditions. Employees working at night are entitled to obtain additional benefits.
- Each employee is entitled to paid annual leave. The length of the annual leave varies from 20 to 26 working days per calendar year, depending on the period of employment.
- It is possible to hire employees for weekend-work only.

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- Any sick employee, if his/her inability to work is confirmed with a proper medical documentation, is entitled to receive 80% of his/her remuneration for the period of inability to work. The employer pays the above remuneration if the employee is unable to work for up to 33 days in the calendar year (and in case the employee is over 50 years old up to 14 days in the calendar year). If the inability to work exceeds this time limit, the employee receives the social security benefit (in the same amount). In some specific situations the employee receives 100% of remuneration or benefit during the sick leave.

D. Protection of particular groups of employees

- The Polish labour law particularly protects pregnant employees, employees taking care of children and young employees, as well as employees in the pre-retirement age and employees' representatives.
- The protection consists in a prohibition to terminate the employment relationship and to change employment conditions of the above-mentioned groups of employees.

E. Leave connected with parenthood

- Employee who gave a birth to a child is entitled to paid maternity leave from 20 to 37 weeks depending on number of children born during one birth, additional paid maternity leave of 6 weeks (in case of giving birth to one child during one birth) or 8 weeks (in case of giving birth to two or more children during one birth) and parental leave of 26 weeks (irrespective of number of born children). Employee who gave birth to one child during one birth is entitled to a maximum of 52 weeks of leave. According to rules set out in the Labour Code the portion of the abovementioned leaves may be used by the employee-father.
- During the period of maternity leave, additional maternity leave and parental leave the employee is entitled to the maternity allowance on terms and conditions stipulated in statutory provisions.
- Employee-father who raises the child is entitled to paid paternity leave of 2 weeks.
- Employee employed for at least 6 months has the right to unpaid upbringing leave up to 36 months to provide personal care to his/her child, however not longer than until the child's fifth birthday.

F. Performing work on other basis than employment contract

- Individuals may enter in contracts regulated by civil law (service contracts, in particular) with entrepreneurs. In such case, the requirements resulting from labour law do not apply except from obligations of entrepreneurs regarding ensuring safe and hygienic working conditions. However, such service contracts are not allowed, if the work is to be performed in the circumstances typical for the employment relationship.
- Self-employment (becoming a sole trader) is more and more common. Again, it is prohibited to substitute the employment contract with such arrangement, if the work is to be performed in the circumstances typical for the employment relationship and there are certain situations in which self-employment is not beneficial.

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- Special arrangements may be taken with regard to employment of members of the company's Management Board.
- From January 1st 2011 Act on implementing certain European Union regulations on equal treatment introduced rules of equal treatment (which until now were in force in respect to employees only) concerning other basis of employment than employment contract and introduces mechanisms of legal protection.

G. Cost of labour

- In 2013 minimum monthly salary amounts to PLN 1,600 gross and as of 1 January 2014 will be increased to PLN 1,680 gross.
- Social security contributions paid by the employer: from 16.93 % up to 20.12 % of the gross remuneration. Social security contributions paid by the employee: 13.71% of the gross remuneration. There is a remuneration threshold over which some of the contributions are not due.
- Contributions to the Labour Fund and "FGŚP" fund (a kind of insurance of employees' remunerations): respectively 2.45% and 0.1% of the gross remuneration for each employee, payable by the employer;
- In addition to the above, the employer has to pay contributions to the "PFRON" fund, financing rehabilitation of disabled persons. The amount of contribution depends on the situation of each employer and the level thereof cannot be presented without checking the existing situation of the employer.



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All information valid as of October 2013.

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