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Raczkowski

PRO HR

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TOPICS

Deadline approaches for Britons to register as beneficiaries of UK's withdrawal agreement from the European Union

An employer who employs more than 100 workers is required to establish an occupational safety and health service.

New system for submitting residence applications

Soldiers of the Territorial Defence Forces have the possibility of combining military service and professional work. The defence regulations provide them with a number of employee entitlements.

A change in pay date does not require a change in individual terms of employment

INSIGHTS / WEBINARS

TOPIC 1

Deadline approaches for Britons to register as beneficiaries of UK's withdrawal agreement from the European Union



Marta Dudczak
Attorney-at-law trainee



British citizens who are the beneficiaries of the agreement on the withdrawal of the United Kingdom from the EU have the possibility to register their residence in Poland on preferential terms only until 31 December.

The beneficiaries of the withdrawal agreement are individuals who exercised their right to reside prior to the end of the Brexit transition period (i.e. 31 December 2020) and continue to reside in Poland after that period ended.

The status of a beneficiary of the withdrawal agreement gives British citizens the right to stay and be employed in Poland on the same terms as before Brexit. In particular, such individuals may perform work without a work permit.

However, Polish regulations require that the beneficiaries of the agreement confirm the acquisition of their status by registering their residency. A relevant application must be filed with the voivodeship office with jurisdiction over the place of residence no later than 31 December 2021.

Failure to meet the deadline to register residency will result in inability to confirm the beneficiary status. Thus, a citizen of the United Kingdom will not be able to enjoy the privileges guaranteed by the withdrawal agreement in Poland.

TOPIC 2

An employer who employs more than 100 workers is required to establish an occupational safety and health service

An employer may take advantage of the option of outsourcing these tasks only if it is unable to hire competent employees.

The Labour Code gives the employer the possibility to outsource the tasks of the OSH service. Many employers do not realize, however, that such right is available only to companies with up to 100 employees (counted as employed persons, not as FTEs). Everyone else should establish an OSH service within the organization. Depending on the size of the workforce, employers will need to establish a multi-person or single-person unit, or hire a part-time OSH officer in that unit.

Employers with more than 100 employees, however, may outsource OSH services when they are unable to hire competent staff. In practice, this means that such outsourcing is possible only for the duration of the recruitment process for a position within the organization. The recruitment process should lead to the hiring of an employee and should not be conducted merely to justify the absence of an OSH service in the company.

In the event of a State Labour Inspection Service inspection, employers employing more than 100 people who have outsourced the tasks of the OSH service should expect an order from the PIP to establish such service if they cannot prove that they are not able to employ competent employees.



Agnieszka Anusewicz
Advocate



TOPIC 3

Whistleblowing in light of the EU Directive

By the 17th of December this year, all European Union Member States will have to implement the Whistleblower Directive into their legal systems. In Poland, draft national legislation has been published and is currently in the consultation phase.

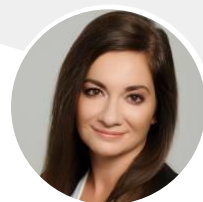
The Directive regulates the reporting of suspected violations of EU law in selected areas including public procurement, consumer protection, public health and data protection.

Employers in the private and public sector with at least 50 employees will have to comply with the new requirements. The largest entities (with at least 250 employees) will have very little time to comply with the obligations resulting from the Directive - the whistleblower protection system should be implemented there already by the end of this year.

The Directive imposes obligations on employers, such as:

- Establishing whistleblowing channels;
- Developing compliance procedures for receiving whistleblower reports;
- Registering notifications from whistleblowers and follow up on them (e.g. conduct an investigation);
- Ensuring the protection of whistleblowers (including keeping their identity confidential).

Read more in the [PRO HR Compliance](#) special edition.



Ewelina Rutkowska
Advocate Trainee



TOPIC 4

New system for submitting residence applications

Foreigners applying for residence permits in Mazowieckie Voivodeship are obliged to fill in and register their applications in the inPOL system.

The system allows foreigners to fill out applications for temporary residence, permanent residence and long-term EU resident. There are also available applications for issuance or replacement of residence cards, visa extensions or granting of Polish citizenship. There are no applications in the system to register the residence of EU citizens.

Completion of the application is not tantamount to its submission. To this effect one needs take the printed application to the relevant office. The system is to ensure more efficient and faster service of foreigners during their visit in the office.

However, so far it is not possible to register an appointment in a voivodeship office using inPOL. Registration is still possible via the website kolejka-wsc.mazowieckie.pl. Such functionality is expected to be added to the system in the future.



Michał Kacprzyk, PhD.
Attorney-at-law



Jan Pietruczuk
Immigration Consultant



TOPIC 5

Soldiers of the Territorial Defence Forces have the possibility of combining military service and professional work. The defence regulations provide them with a number of employee entitlements



Paulina Zawadzka-Filipczyk
Attorney-at-law



The employment relationship of an employee – soldier of the Territorial Defence Forces is subject to special protection in the period between the date of delivery of his draft card and the start of the service. During this time, the employer in principle may not terminate the employment relationship (except for, among other things, disciplinary dismissal). A special rule applies to employment under a probationary contract. If the probationary period expires after the employee is called up for military service, such contract is considered to be for an indefinite term.

An employee called up for territorial military service receives from the employer a one-off severance pay of two weeks' salary. Upon delivery of his draft card he is also entitled to a one-day leave without pay. He is entitled to the same leave also after a single continuous tour of duty for at least thirty days. An employee-soldier of the Territorial Defence Forces may also be referred to a specialized training or course. He shall be entitled to a paid leave for the duration of such classes.

For the duration of territorial military service, the employer is obliged to grant the employee an unpaid leave. During such leave, the employee-soldier of the Territorial Defence Forces retains all rights arising from the employment relationship, except for the right to remuneration. The period of territorial rotational service is counted as company seniority if the employee returns to work within thirty days of release from service.

TOPIC 6

A change in pay date does not require a change in individual terms of employment

The date of payment of salary is not a work or pay condition. Its change does not require handing in amending termination notices to employees or concluding agreements amending their work and pay conditions. The decision in this regard is at the discretion of the employer.

However, this does not mean that the employer does not have to take any action to change the pay date. Labour rules and regulations need to be changed. The changes will not take effect overnight, but only after two weeks after they have been communicated to employees in the manner adopted by the employer. An amendment to the labour rules and regulations may need to be agreed on with the trade unions.



Natalia Łokińska
Advocate



INSIGHTS / WEBINARS

WORKSHOP SERIES | Compliance, whistleblowing

Learn how to properly assess risks and make decisions on your own in terms of initiating, conducting, supporting internal investigations, how to deal with people reporting suspected irregularities and understand the implications of changes in the law on anti-corruption in business and apply current standards and best practices.

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- [Conducting internal investigations - Session 2](#)
- [Anti-corruption in corporate practice](#)

PRO HR COMPLIANCE | Special edition on whistleblowing

Read about whistleblowing in light of the EU Directive.

The legal state of whistleblower protection in Poland is still inconclusive, and by the 17th of December 2021 Poland must implement the national legislation in this subject.

- [Get ready. Download the PRO HR Compliance special edition](#)

RANKINGS | Bartłomiej Raczkowski in the prominent Polish lawyers ranking

The Gentleman Magazine has published a "Who is Who – outstanding Polish lawyers and their firms" ranking, which features lawyers who in their fields of practice are an inspiration to younger colleagues, set directions and treat their work as a mission.

Bartłomiej Raczkowski is among them.

- [Read more about the ranking](#)

Video series | Implementing whistleblowing

Should a whistleblower be remunerated?

Ewelina Rutkowska answers this question in the video material.

- [Watch](#)

PRO HR Pharma | Quarterly online magazine

In the latest edition we write, among other things, about how to manage the performance of a medical representative; employee testing; challenges related to the work of representatives and whether to require a vaccination certificate from a medical representative.

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