



Ius Laboris Poland Global HR Lawyers

Raczkowski

PRO HR

JANUARY 2023

TOPICS

The President has signed an amendment to the Labour Code on remote work and substance testing

Changes in wages due to inflation

New statistical card for accidents at work

Trade unions had until 10 January to submit information on the number of members as of 31 December

State Labour Inspection Service inspections in 2023

Banks have until the end of January to submit information to the PFSA on gender pay gap and data on risk-takers with high earnings

Obligation to prepare an analysis of the occupational safety and health situation

Poland updates SIS regulations

Employers' new information obligations

Employers with fewer than 50 employees must notify them by the end of January that they are not establishing a company social benefit fund and not paying vacation benefit

Some employees will pay tax for 2022 including the eliminated middle class tax break

New indicators in labour law

TOPIC 1

The President has signed an amendment to the Labour Code on remote work and substance testing



Iwona Jaroszevska-Ignatowska, Ph.D.
Attorney-at-law / Partner



Remote work will be carried out at a place indicated by employee but agreed with employer. There will be occasional remote work, up to 24 days per year, without too much bureaucracy and costs for employer. Remote work will be, among others, at employer's order during an epidemic emergency state and 3 months later or at employee's request. A draft of agreement with union(s) or remote work regulations consulted with employee representatives is required. We must include professional groups covered by remote work therein. It is also necessary to calculate lump sum that employer will pay to employees for remote work. Parents of children up to the age of four and pregnant employees will be able to successfully request for remote work. In some cases, employer will be entitled to refuse.

The law on remote work will come into force 2 months after publishing in the Journal of Laws.

Employer will be entitled to test sobriety of employees. Testing will be possible only if its purpose is to protect life and health of employees and other persons or to protect property. In the collective bargaining agreement or work regulations or, in small companies, in an announcement, employer will have to regulate rules on testing, type of testing tool and the tested groups of employees. Employer must inform employees about testing implementation two weeks ahead. Employer must also provide each newly hired, covered by testing, employee with written or electronic information about testing rules before allowing them to work.

It will also be permissible to test the presence of substances causing similar effects to alcohol.

The law on substance testing will come into force 2 weeks after publication in the Journal of Laws.

We are now waiting for the law to be published.



Iwona Jaroszevska-Ignatowska, Ph.D.
Attorney-at-law / Partner



TOPIC 2

Changes in wages due to inflation

Some employers are raising salaries for all employees by a percentage close to, or slightly lower than, the inflation rate announced by Statistics Poland. Companies that cannot afford such a long-term increase in labour costs are introducing the so-called one-time bonuses. They pay each employee the same amount or an equal percentage of the employee's individual salary for all. The bonus is payable either as a one-off payment or in parts. Some companies make contributions to the company's social benefit fund. There are also companies that convert existing cash benefits into bullion benefits, such as giving employees a gold bar instead of cash jubilee awards.



Monika Czekanowicz
Attorney-at-law



TOPIC 3

New statistical card for accidents at work

As of 1 January 2023, the model of the statistical work accident card has changed.

One of the most important changes is the shortening of the deadline for submitting Part I of the statistical card to Statistics Poland. The new deadline for the employer to prepare and submit the card is 14 business days from the day the accident report was approved or the accident card was prepared.

In addition:

- the terms in the explanatory notes have been clarified and expanded;
- more information to be completed has been moved from Part II to Part I;
- a question on occurrence of an accident in connection with performance of remote work has been introduced.



Katarzyna Soboń
Advocate



TOPIC 4

Trade unions had until 10 January to submit information on the number of members as of 31 December

An organization that has not fulfilled this obligation is not entitled to the authority of a company trade union organization. The organization obtains it again after submitting the information on the number of members.

The lack of authority of a company trade union means that the employer is exempt from the obligation to cooperate with such an organization. Thus, among other things, there is no obligation to consult with it on decisions to lay off employees.



Iwona Jaroszevska-Ignatowska, Ph.D.
Attorney-at-law / Partner



TOPIC 5

State Labour Inspection Service inspections in 2023

The State Labour Inspection Service will conduct 60,000 scheduled inspections. The Service will check: working time, payment of wages and other benefits, civil law agreements, compliance with new regulations on remote work, legality of employment, including contracting out more work than agreed in the employment contract and paying more, use of outsourcing services, compliance with restrictions on trading on Sundays and holidays in retail establishments, and posting of employee drivers providing work in international road transport (the so-called mobility package). It will also look at issues related to the evaluation of the process of qualifying work in special conditions or of a special nature by the employer according to the Bridge Pension Act.

There will also be intervention inspections.

TOPIC 6

Banks will have to provide the PFSA with information on the gender pay gap and data on risk-takers with high earnings. Will have the obligation to calculate the “wage gap” due to gender.

Banks are required each year to submit to the Polish Financial Supervision Authority information for the previous year on the gender pay gap and data on the number of risk-takers whose total remuneration in the previous year amounted to at least the PLN equivalent of EUR 1,000,000. In the case of risk-takers with high salaries, information should be provided on the positions they hold, the amounts of the main components of their salaries, bonuses granted, long-term awards and pension contributions paid.

The deadline for submitting the aforementioned information for 2022 is 31 January this year.

From 2023 banks and brokerage houses are required to apply the EBA's new gender pay gap guidelines. On their basis, they will be required to calculate the gender pay gap, i.e. the difference between the average earnings of men and women.

Information on the wage gap will be provided every three years, starting in 2024 (by 15 June). This means that the first data will be for 2023 and will be reported by 15 June 2024.



Natalia Krzyżankiewicz
Advocate





Monika Czekanowicz
Attorney-at-law



TOPIC 7

Obligation to prepare an analysis of the occupational safety and health situation

At the beginning of the year, employers are required to prepare a periodic analysis of the occupational safety and health situation. This obligation follows directly from the provisions of the Regulation on Occupational Safety and Health Service corresponding to the employer's code-based obligation to monitor safety and the safety of work processes in the company.

The purpose of the analysis is to assess the state of safety at the workplace by, among other things, comparing this state with applicable regulations and identifying possible irregularities. Thus, a good source of information for preparing the analysis will be reports from occupational safety and health reviews, interviews with employees, records of occupational accidents, reports from external inspections, records of measurements of the working environment or reports from the OSH Commission.

A reliably performed OSH analysis provides a comprehensive overview of the working conditions, which often speeds up and facilitates the inspection of the State Labour Inspection Service.

TOPIC 8

Poland updates SIS regulations

As part of the adaptation of Polish law to EU Schengen Information System regulations, new categories of SIS data alerts are being introduced. These are:

- entries on unknown suspects or wanted persons;
- prevention entries on minors and adults at risk;
- entries for return purposes.

The Polish government has also prepared a bill of an act regulating the use of SIS and the system for returning foreigners. The bill proposes the following solutions:

- a new system for exchanging information between EU countries and monitoring persons illegally residing in the EU;
- determining the conditions and procedures for processing SIS information;
- changes to the list of foreigners whose residence in Poland is undesirable;
- establishing a European travel document for return purposes;
- allowing the granting of temporary residence permits to foreigners residing in the territory of Poland on the basis of a humanitarian visa;
- changes to the Polish language requirement in the procedure for obtaining a long-term resident's EU residence permit;
- guaranteeing an effective appeal measure in the event of a consul's refusal to issue a national visa;



Agnieszka Szymańska
Immigration Consultant



Poland updates SIS regulations

- changes related to the elimination of detention for foreigners;
- modification of the rules for adjudicating on re-entry into the territory of Poland and other Schengen countries;
- changes of deadlines in cases related to the procedure for the return of foreigners;
- introducing the institution of assistance and reintegration of foreigners obliged to return;
- repealing the regulations extending the running of the deadlines due to a state of epidemic threat.



Paulina Szymczak-Kamińska
Attorney-at-law



TOPIC 9

Employers' new information obligations

Amendments to the Labour Code implementing EU directives impose new information obligations on employers towards their employees.

Currently, the employer is obliged to inform employees in the adopted manner about the possibility of full-time or part-time employment, and temporary employees - about job vacancies.

Under the proposed amendments, the employer will be obliged to inform all employees, not just those working under term contracts, of vacant positions.

In addition, an obligation will be imposed on the employer to inform employees of promotion opportunities (currently there is no such obligation).

The proposed amendments have been submitted to the Sejm.



Natalia Basista
Advocate



TOPIC 10

Employers with fewer than 50 employees must notify them by the end of January that they are not establishing a company social benefit fund and not paying vacation benefit

Employers with fewer than 50 employees as of 1 January may establish a company social benefit fund or may pay a vacation benefit.

If the aforementioned employers do not want to either establish the fund or pay the vacation benefit, and at the same time are not covered by a collective bargaining agreement and are not required to issue remuneration bylaws, they must provide employees with information that they are not establishing the fund and not paying the vacation benefit. The deadline for submitting this information is 31 January 2023.

TOPIC 11

Some employees will pay tax for 2022 including the eliminated middle class tax break

In the PIT-11 form for 2022, employees will not find any information about the amount of the middle class tax break applied to them. Therefore, they will be asking employers about the amount of the break and how to include it in their tax returns.

When filing their tax return for the previous year, the taxpayers will not report whether they were entitled to the middle class tax break, whether they actually used this entitlement or in what amount. The amount of tax should be calculated according to the tax scale in effect for 2022, completely ignoring this tax break.

Once the taxpayer has filed his or her tax return, the head of the relevant tax office will recalculate the tax liability. This will be the case for any taxpayer who has earned an annual employment income in the range of PLN 68,412 to 133,692 gross.

The calculation will be made in accordance with the regulations in effect on 1 January 2022, that is, taking into account the middle class tax break, the 17% tax rate in the first tax bracket and the annual tax-reduction amount of PLN 5,100. The authority will also take into account the deductions and tax credits that the taxpayer has included in his or her return.

The tax calculated in this way will be the hypothetical tax due for 2022. If it is lower than the amount of tax resulting from the tax return filed by the taxpayer, the difference will constitute an overpayment of tax, which will be refunded to the taxpayer.

The head of the tax office has 21 days from the date the return was filed to inform the taxpayer of the amount of any overpayment.



Katarzyna Serwińska
Tax advisor / Partner



Tomasz Kret
Senior Lawyer



Some employees will pay tax for 2022 including the eliminated middle class tax break

The taxpayer does not need to take any action to initiate the calculation of the hypothetical tax due for 2022. It is the authority itself that will verify whether the taxpayer meets the conditions for determining the hypothetical tax, and then calculate the amount itself.

Only those taxpayers with an overpayment of tax will learn about the result of the comparison of the two amounts. The mechanism will apply only to the 2022 tax settlement.

The difference between the tax liability resulting from the return and the hypothetical tax due for 2022 will be calculated on the assumption that the taxpayer has paid the entire liability resulting from the return prepared by him or her. Accordingly, if the return shows an amount to be paid, the taxpayer should pay it by 2 May 2023. Otherwise, if the taxpayer is refunded an overpayment resulting from the above difference, there will be tax arrears, which will have to be paid with default interest.

We suggest that, along with sending the PIT-11 form, employers inform employees about the above rules for preparing the 2022 tax return.



Natalia Basista
Advocate



TOPIC 12

New indicators in labour law as of 1 January 2023

Minimum wage:

- PLN 3,490 per month
- PLN 22.80 per hour

Hence the change in indicators that depend on it.

Annual base for calculation of pension contributions:

- PLN 208,050.00

New per diem and lump sum rates for business travel.

For a trip started in 2022 and ended in 2023, for the time before 1 January 2023 - according to the existing regulations, and for the time from 1 January 2023 - according to the new regulations.

As of 17 January 2023, after more than 15 years, the “mileage” rates have increased.

The new rates apply to statements submitted before and processed after 17 January 2023.

follow us



contact us



www.rackowski.eu

The PRO HR Newsletter does not contain any legal opinions and cannot be treated as their source. To obtain legal advice about a relevant subject, please contact us at the following address: office@rackowski.eu.

Copyright © 2023: Rackowski sp.k.