

03 Labour

Labour Code

Employment relations in Poland are regulated by the Labour Code. Its provisions are accompanied by a range of special regulations and secondary legislation, including ordinances laying down detailed rules of conduct in specific employment situations.

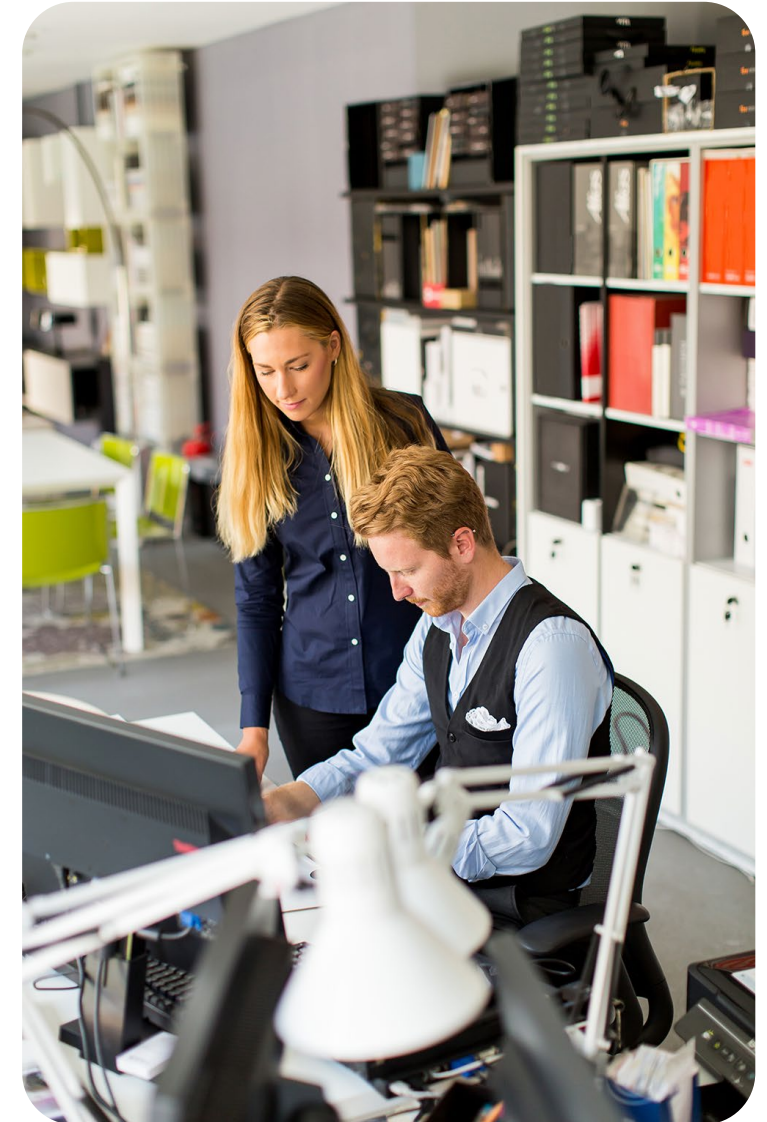
Key Issues

Key issues covered by the provisions of the Labour Code include:

- types of employment contracts that may be concluded with employees;
- general rules governing the payment of remuneration;
- rights and duties of contracting parties, working hours, leave entitlements;
- arrangements related to parenthood;
- occupational health and safety provisions;
- provisions for the employment of minors;
- anti-discrimination provisions.

Key issues covered by the secondary legislation:

- necessity of keeping personal files of employees (in electronic or paper version);
- provisions connected with employment of pregnant women;
- provisions regarding social benefits;
- provisions regarding Social Fund.



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Types of employment contracts

There are three basic types of employment contracts under the Labour Code:

- probationary period employment contract;
- definite period (fixed term) employment contract;
- indefinite period employment contract.

Other forms of cooperation are possible **under civil law** (under the Civil Code). For example, a cooperation agreement between entrepreneurs (B2B), contract of mandate (umowa zlecenia), contract of specific task (umowa o dzieło).

Probationary period employment

Employment contract for a probationary period can be concluded for a maximum period of 3 months, except for contract for probationary period which are supposed to be followed by the fixed term contract concluded for:

- less than 6 months – in this case the contract for probationary period shall not exceed 1 month;
- at least 6 months but no more than 12 months – in this case the contract for probationary period shall not exceed 2 months.

In cases justified by the type of employee's work, the probationary period of 1 or 2 months can be extended once for an additional month.

Employment contract for a probationary period can be concluded only once with each employee. The only exception is, when another contract for probationary period is concluded for a different type of work and the employee is entrusted with duties that are distinctly different from those, entrusted to him within the previous employment between the parties.

Fixed term employment contract

Fixed-term contracts with each employee should not exceed the total amount of 33 months (either as a one contract or a few contracts). As a rule, the total number of fixed term contracts between the same parties is limited up to 3 contracts.

In case an employer concludes a fourth fixed term contract with an employee, or a fixed term contract between the parties exceeds 33 months, the employment will automatically be considered as an indefinite term contract (with all the consequences thereof). However, there are a few exceptions to this rule, e.g. the need to substitute an employee due to their justified absence from work.

As a result of implementation of the Work Life Balance Directive into the Labour Code, employees with at least six months seniority have been given the right to request once a year the change of their employment from a fixed term employment to an indefinite period contract.

Indefinite period employment contract

The most popular type of employment in Poland is an indefinite period employment contract. This type of employment is the most stable and protective to the employee. Once granted, the employee's rights cannot be taken away and the terms of the contract can only be changed by mutual agreement between the parties.



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Minimum wage

The state policy on pay, especially the institution of minimum wage, aims to ensure that one of the key principles of labour law – the fair pay - is implemented. The rate of minimum wage is agreed every year by the Trilateral Commission for SocioEconomic Affairs and published by the Prime Minister in Monitor Polski of every year.

The minimum monthly wage in 2024 was fixed at PLN 4 242,00 from January and at PLN 4 300,00 from July, which means that a person employed on full-time from 1st January and respectively from 1st July 2024 cannot receive lower salary.

According to Article 8.1 Minimum Wage Act, if an employee works part-time in any given month, the statutory minimum pay requirement applies proportionately to the number of working hours to be worked by the employee in the month.

The minimum wage also serves as an important parameter underlying the calculation of certain employment benefits, including:

1. night work allowance;

2. severance pay due to collective redundancies;
3. minimum compensation for breaching the principle of equal treatment in employment;
4. compensation due to harassment-related termination of employment;
5. minimum stand-by pay;
6. minimum basis for social allowances;
7. amount exempt from bailiff deductions;
8. social security contributions paid on preferential terms by self-employed entrepreneurs. by mutual agreement between the parties.

National average wage

The national average wage is average amount of remuneration obtained for performing work in Poland. Its amount is calculated by the Central Statistical Office once a month and once a year, and then made public.

The Central Statistical Office's calculations regarding the national average do not apply to the entire labour market, but only to companies employing at least 10 people. This means that the calculations do not include small and micro-enterprises, which constitute the vast majority on the Polish market.

Additionally, when calculating the average wage, the Central Statistical Office does not take into account people employed on civil contracts.

The national average wage for year 2023 was PLN 7 430,65.

Benefits in kind

Nowadays in Poland employees beside the apparent cash value, also expect the employer to provide the benefits in kind.

The most popular and coveted by employee benefits are private healthcare, gym cards, lunch cards or company car (for management).

All the benefits in form of money or in kind are treated as employee's income and as such are subject to tax social security contributions.

Information regarding the taxation of an income from the employment you will find on pages 43-46.

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Obligatory internal regulations

As a general rule, employers who employ **at least 50 employees** must introduce:

1. **Work regulations** – a document establishing the organization and order in the process of work and the associated rights and duties of the employer and the employees;
2. **Remuneration regulations** – a document on the terms and conditions for the payment of wages and other employment benefits, indicating rules for granting of such benefits;
3. **Social Benefits Fund regulations** – a document setting out the rules for the operation of the Company Social Benefits Fund and identifying the employees entitled to benefits and support measures provided from the Fund.

The obligation to introduce the above-mentioned regulations will not arise if the employer has instead concluded a collective bargaining agreement with the trade unions.

Employers can introduce the above listed regulations voluntarily even if they do not exceed the limit of 50 employees.

Additional internal regulations

The following regulations may be additionally introduced by the employers, accordingly to their needs:

- bonus regulations;
- internal compliance policies;
- codes of ethics;
- anti-bullying and anti-discrimination policies;
- rules for the use of company cars for business and private purposes;
- rules for reimbursement of the costs of purchase of corrective eyeglasses or contact lenses.



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Remote work

Remote work is extensively regulated in the Labour Code. In order to introduce it into the organization, certain actions and formalities must be completed.

We distinguish two types of remote work: full-time remote work and partial remote work (also known as hybrid work). The parties may decide which type of work they prefer, but as a rule, the final decision in this regard rests with the employer.

The following steps must be taken to introduce remote work at the employer's:

- establishing rules for remote work in an agreement with a trade union, **or** in remote work regulations **or** in an individual agreement between the employer and the employee;
- preparing other obligatory internal documents related to remote work (e.g. occupational health and safety documentation, necessary employees statements, personal data protection procedures dedicated for remote work, and general data safety procedures);
- providing the employees with materials and work

- tools, including technical equipment, necessary for the performance of remote work;
- calculating the costs of remote work that should be compensated to the employee (or substituting those costs with a properly calculated lump sum);
- providing the employee with the necessary training and technical assistance to perform remote work;
- ensuring compliance with health and safety obligations.

Additionally, the regulations **allow occasional remote work** which requires far less formalities but shall not exceed 24 days per calendar year.

Whistleblowers

The whistleblower protection procedure is binding as of 25 September 2024.

The Act on the Protection of Whistleblowers enumerates 17 categories of breaches which could be reported by the whistleblower, e.g. corruption, anti-money laundering, terrorist financing environment protection.

The regulations concern mainly entities employing **more than 50 individuals**, regardless of whether they are

employed based on a contract of employment or on any other basis, i.e. civil contracts (contract of mandate, contract for provision of services, B2B contract).

All employers subject to the regulation shall fulfill the following duties:

- establish an appropriate internal procedure for reporting breaches of the law;
- implement reporting channels;
- establish an internal reporting register;
- prepare a relevant authorizations;
- refrain from retaliation against whistleblowers;
- take proper follow-up actions.

The introduction of internal reporting procedure must be consulted with trade unions or with representatives of individuals rendering work for the employer, selected in accordance with the procedure adopted by this employer.

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Working hours

In Poland, the standard working hours are:

- 8 hours a day;
- 40 hours in a five-day working week, over the adopted reference period which can be no more than four months;

Including overtime, the working hours in any adopted reference period may not exceed 48 hours a week.

There are groups of employees, listed in secondary legislation, to whom reduced working hours apply (e.g. employees with disabilities, healthcare employees)

Annual leave

An employee's annual leave entitlement varies depending on the number of years worked by that employee. It amounts to respectively:

- 20 days - if the employee has worked less than 10 years;
- 26 days - if the employee has worked 10 years or more.

The provisions of the generally applicable labour law

specify the legal minimum entitlements. An employer can elect to offer more leave in its internal regulations.

In the case of part-time employees or those who have only worked for part of the year, the leave entitlement is calculated pro-rata (to the working hours or period of employment with the given employer during the year, respectively).

Sickness leave

Sickness leave is paid approximately about 80% of regular remuneration and financed by an employer up to 33 days and Social Security Institution from 34 day. Sickness leave is confirmed by medical certificate.

Additional leave entitlements

There are some special circumstances when employees are entitled to additional leave. Below we enumerate the most popular:

- 2 days or 1 day of additional occasional paid leave - in connection with marriage, birth, death and burial of the employee's close family;
- 2 days or 16 hours of child care paid leave – for

parents of a child up-to 14 years of old;

- 2 days of 16 hours of paid leave from work due to force majeure - in urgent family matters caused by sickness or accident if immediate presence of employee is required;
- 5 days of family member care unpaid leave – to ensure personal care or support for the closest family member.

Maternity and Parental leave

The following types of leave may be granted:

	PAID	PERIOD
maternity leave	yes	20-37 weeks*
parental leave	yes	41-43 weeks*
paternity leave	yes	2 weeks
childcare leave	no	36 months

*depending on the number of children born at one time



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Social insurance

Poland has a national social insurance system which is made up of several elements, including: retirement insurance, disability insurance, sickness insurance, accident insurance, health insurance, labour fund, guaranteed employee benefits fund

Type of insurance	Rate	Rate payable by the employee	Rate payable by the employer
Retirement	19,52%	9,76%	9,76%
Disability	8,00%	1,5%	6,5%
Sickness	2,45%	2,45%	
Accident	0,67% - 3,33%		0,67%-3,33%*
Health	9%	9%	
Labour Fund	2,45%		2,45%
Guaranteed Employee Benefits Fund	0,10%		0,10%

Employees Capital Plans (PPK)

The plan is the form of saving under the pension system. It is an obligation of the employer to establish the PPK for employees.

Both parties are required to pay contributions – minimum **1,5%** of the monthly remuneration is paid by an employer and minimum **2%** of the monthly remuneration is paid by an employee. The implementation of the PPK requires the conclusion of a management contract for PPK with the selected investment fund, which is established to collect paid funds. Employees can opt out of this additional form of saving.

State Fund for Rehabilitation of Disabled Persons – PFRON

Each employer who employs at least 25 persons (employees working ½ part time are counted as 0.5 person etc.) is subject to PFRON payments.

Every disabled employee allows to decrease the amount to be paid to PFRON. This is a way of encouraging employers to hire disabled persons. There is no possibility to resign from PFRON payments (unless the ratio between employees with disabilities is higher than 6% of total employment).

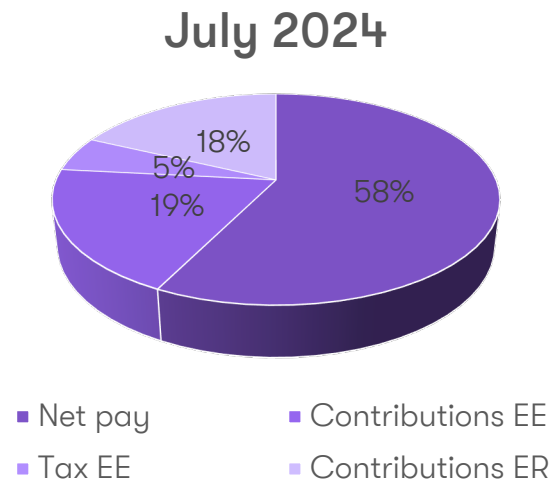
Example – for employer hiring 25 employees on full time job the additional payment for January 2024 would be amount of PLN 4 387.00

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Cost of employment

The cost of employment is not only the gross remuneration but also all the additional components of payroll. One part of costs is visible on the payroll list however employer is also obligated to cover the cost of medical examinations for work, safety trainings, allowance for remote work, work expenses and expanses related to business trips.

Below we show the split of the total cost of employment



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Severance pay and compensation

As a rule, the following types of severance pay and/or compensation are paid in the event of termination or expiry of the employment contract in Poland:

- 1. Severance pay for employees whose employment was terminated solely for the reasons not related to them** (under the Collective Redundancies Act) – ranging from a one month salary to three month salary depending on the length of the employment – however, the amount of severance pay may not exceed the amount of 15 times the minimum wage (the Collective Redundancies Act applies only for employers who employ at least 20 employees);
- 2. Compensation for pre-mature termination of employment** – equivalent of salary for remaining notice period paid to the employee, if the notice period has been shortened unilaterally by the employer (in the event of bankruptcy or liquidation of the employer);
- 3. Compensation for wrongful termination** – awarded by the court in the event that termination of an employment contract (with or without notice) is declared to be unlawful or unjustified;

- 4. Severance pay upon retirement** – paid to an employee who retires due to retirement age or disability. It is a one-off benefit paid in the amount of one-month's salary of an employee;
- 5. Bereavement allowance** – paid to family members of the deceased employee. The amount of the allowance depends on length of the employment and can range from the equivalent of one month's salary to six months' salary.

Collective redundancy

Collective Redundancies Act applies only to employers who employ **at least 20 employees** and only in the event where the number of employees to be laid off within the period of **30-days** reaches the level of at least:

- 10 employees in case of an employer who employs fewer than 100 employees,
- 10% of employees in case of an employer who employs 100 to 299 employees;
- 30 employees in case of an employer who employs at least 300 employees.

The law provides for specific obligations in relation to

collective redundancies, including for example:

obligation to consult the company trade union organizations operating at the employer about the intention to carry out collective redundancies;

obligation to notify the district employment office of collective redundancy, in order to prepare the labour market for increased unemployment resulting from the collective redundancy;

obligation to pay statutory compensation.

Certain employee groups are granted special protection due to their personal or occupational status, e.g. pregnant women and employees on maternity leave, union members, members of councils and organizations existing in the workplace for the protection of workers' rights. The provisions of the Act on collective redundancies also apply in the case of individual redundancies if the redundancy occurs solely for reasons not related to the employee (the minimum employment limit of 20 employees still applies).

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Trade unions and employee representatives

The ability to organize in trade unions, occupational, social and economic organizations is a fundamental right of the employees, guaranteed in the Polish Constitution. The right to establish and join a trade union, together with all the principles of organization and union members' rights are laid down in the provisions of the Trade Union Act.

The main focus of trade union activity in Poland is the protection of employee's rights and representation of workers before state and local authorities, as well as other entities, e.g. employers' organizations. Under this regulation, each employee is granted the right to

collectively defend their interest. It also constitutes special rights such as paid leave of absence or special protection against dismissal for trade union activity.

The Trade Union Act imposes also certain obligations on the employers to enable undisturbed functioning of trade unions, including the obligation to provide dedicated office space for trade union activity and to consult particular decisions with trade union representatives. In the event of no trade unions operating within the organizations, the legislation sometimes provides an alternative obligation to consult specific matters or actions with employee representatives. The proper representation should be elected in accordance with a manner adopted by the employer and respecting the rules of transparency.

Works councils

The Polish law also includes the Act on Informing and Consulting Employees, which obligates employers employing **at least 50 employees** to inform them of their right to form a worker's council or to hold elections for a worker's council, which includes 3, 5 or 7 employees, depending on the scale of employment in a given company. The role of a worker's council is to consult specified issues with the employees and to mediate between the employer and the employees. Members of workers council are under special protection against termination of employment or a change of terms of employment.



According to Polish labour law, an employment may be terminated due to the expiry of the term of the contract or through one of the following legal actions:

Mutual agreement of the parties

This action may be initiated by either party, any time, regardless of the employee's status. The termination by mutual agreement is not limited by the special protection against dismissal, such as e.g. pregnancy, maternity leave, pre-retirement age, etc. The only condition is that both parties agree on the terms and conditions for terminating the employment.

Notice of termination

Any employment contract may be terminated by either party subject to a period of notice. The notice period depends on the type of contract and its duration, for example an indefinite period employment and a fixed term employment contract may be terminated with the respect of termination period of:

1. 2 weeks if an employee has been employed for less than 6 months;
2. 1 month if an employee has been employed for at least 6 months;
3. 3 months if an employee has been employed for at least 3 years.

The declaration of termination by either party shall be made in writing.

In case of a definite period employment and an indefinite period employment, the employer is obliged to inform the employee of **the reasons justifying termination**. Each given reason must be concrete, objective and provable. On the other hand, the employee does not have to provide any reasons when termination of the employment is initiated by them.

In case there is any trade union representing an employee within the organization, the employer is obliged to notify the union in writing about their intention to terminate the employment and consider any objections towards termination raised by that union.

Termination without notice

Termination without notice, i.e. with immediate effect, may take place at the initiative of either party. The grounds for such termination are precisely defined in the Labour Code. The employment contract may be terminated without notice in the following cases:

due to the fault of the employer;

due to the fault of the employee (so called disciplinary termination), e.g. for gross infringement of the basic employee duties, commitment of a crime that is obvious or losing license to perform certain duties;

without fault of either party (e.g. in case of long-term absences caused by an illness).

The employer may submit the immediate termination notice only **within 1 month** of becoming aware of the circumstances justifying the termination.

The employer shall decide on the termination of the contract after consulting the trade union organization representing the employee, which shall be notified of the reasons justifying the termination of the employment.

Immediate termination is effective on the date when the declaration of termination is received by the addressee, meaning that they are able to get properly acquainted with the contents of the notice letter.

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Labour law affects us constantly, which is why we actively support clients in all aspects of employment law, including, inter alia: establishing, amending and terminating employment relationships; explaining irregularities in the scope of employment and finding the most suitable solution according to client's needs; resolving compliance issues, such as bullying, discrimination, whistleblowers; conducting employment restructuring, including collective and individual redundancies; implementing remote work into the organization; securing the employers against non-competition and protecting their confidentiality, representing clients in court proceedings.

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- We will provide you with comprehensive and ongoing legal services in all aspects of labour law;
- We will guide you through the entire process of establishing, amending or terminating employment relationships with employees;
- We will assist you with compliance issues (bullying, discrimination, whistleblowers);
- We will draft internal company acts and revise existing company labour law acts, including work regulations, remuneration regulations, regulation of the company social benefits fund, remote work regulation.



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