



What with the new Labour Code?

Beata Mazurek, Spokesman for PiS (the Polish governing party), has announced that the proposed drafts for a new Labour Code as drawn up by the Legislative Committee will not obtain the Government's approval. What then with the previously announced revolutionary changes?

Despite these speculations nearly everyone is convinced that the many of the solutions put forward in the draft will be introduced by way of amendment to the existing Labour Code.

One of such changes is likely to be elimination of the civil-law agreements (i.e. contract of mandate or contract for a specified task), the so-called 'junk contracts'. The codification Committee has decided that from now on every Pole can be employed:

- under an employment contract
- as self-employed,
- on a non-employment contract (a **novelty** in the LC).

The new type of contract will be most similar to the hitherto admissible civil-law contracts (it will not confer the rights and afford the level of protection afforded to an employee employed on an employment contract), but its use will be limited. Only those paid in excess of PLN 70 per hour, i.e. five times more than the minimum hourly rate, can be employed on a non-employment contract. In practice, this applies to the Polish citizens earning in excess of PLN 11 thousand excl. tax, i.e. high-

class specialists, engineers and programmers. Such contracts will not be admissible in the case of e.g. cleaners, security guards, restaurant employees or shop assistants.



Ergonomic office chair

Most workstations are currently equipped with computer screens. And, as the studies carried out by Loudhouse Research 2016, commissioned by Fellowes, 1 in 3 Europeans suffers from computer work-related conditions. The main ailments include backaches.

Long-term sitting in an awkward position also adversely affects breathing, digestion and every other aspect of health, including mental work, commitment and focus.

Chair is one of the key elements of the workplace equipment. Under the Appendix to the Regulation of the Minister of Labour and Social Policy of 1 December 1998 on the occupational health and safety at workstations using monitor screens, the office chair must have:

- sufficient stability, with a minimum of five-arm base on rollers;
- the dimensions of the seat and backrest that ensure comfortable body position and freedom of movement;
- an adjustable seat, between 400 and 500mm from the floor level;
- adjustable backrest height and adjustable backrest inclination angle of: 5° forward and 30° backward;
- profiled seat and supports aligned with the natural spinal and thigh curves;
- 360° swivelling;
- armrests.





New goals of the circular economy

On Wednesday, 19 March 2018, the European Parliament adopted new regulations concerning the so called waste package. It is assumed that a minimum of 55% of communal household and industrial waste should be recycled by 2025. This is 44% at the moment.

The new regulations aim at improving waste management and introduce the Member States into the modern model of circular economy.

The new objectives of the mode outline a clear waste management model based on recycling and reuse – more waste is to be processed, and less to be dumped.

The MEPs voted in support of the regulations whereby by 2025 65% of packaging materials are to be recycled, whereas by 2030 - 70%. Separate targets have been set for specific materials, such as paper and cardboard, plastics, glass, metal and timber.

Food wasting has also attracted attention. The Member States should aim at reducing the amount of food wasted by 30% by 2025 and 50% by 2030. They should encourage actions involving collecting and safely redistributing unsold groceries.

Members of the EuroParliament also discussed the need for increasing consumer awareness of the meaning of the expiry date information provided on product labels.



Is a teleworker entitled to remuneration for work downtime?

A teleworker can work using their own equipment. What if their computer is damaged and requires repair; will they be eligible for remuneration for the downtime?

Under Art. 80 LC, remuneration is only due for the work performed. An employee is entitled to remuneration for idle time only where specific provisions so provide.

With respect to a teleworker's remuneration, Art. 81 LC applies providing that an employee is entitled to remuneration for the time they did not work provided that they were ready to work and were prevented by reasons attributable to the employer; such remuneration should be calculated on the basis of their own rating determined by an hourly or monthly rate, and where such remuneration component was not determined at the time the payment terms were established - 60% of applicable remuneration.

In every case, such remuneration cannot be lower than the minimum wage as specified in relevant provisions.

Other regulations state that such remuneration is only due where the downtime was not attributable to the employee. Where downtime is attributable to the employee, they will only be entitled to remuneration for actual work performed.



Healthy and safe workplace: dangerous substance under control

Many employees across Europe are exposed to contact with dangerous substances in their workplace. Some of them are carcinogenic. The new EU-OSHA campaign sets out to promote proper management of such substances in the workplace.

A European study of businesses concerning new and occurring hazards (ESENER-2) carried out by EU-OSHA has shown that dangerous substances primarily occur in certain industries, such as: agriculture, manufacturing and construction.

However, employees of any other industry can be exposed to dangerous substances. Generally speaking, 38% of European businesses have reported occurrence of potentially dangerous chemical or biological substances at their work premises. Therefore, risk identification and management is of paramount importance.

The Union-wide campaign “Healthy and safe workplaces: Manage Dangerous Substances” marks the beginning of the two years of events and activities aiming at raising awareness of the issue and promoting best ways of managing the hazards to employees posed by dangerous substances.



Petrol station: what extinguishing equipment should be in place?

The obligation to equip a petrol station with portable extinguishers under the Act on fire protection of 24 August 1991 (consolidated text Dz.U.2017.736, as amended) rests on the owner, manager or user of the site.

The Regulation of the Minister of Economy on technical requirements to be met by liquid fuel bases and stations, long-distance pipelines for transporting petroleum and petroleum products, and the situation thereof (consolidated text: Dz.U.2014.1853, as amended) specifies the types and quantities of extinguishers.

Under the Regulation, a liquid fuel station must be equipped with:

- two wheeled extinguishers of 25 kg each;
- two portable powder extinguishers of 6kg each;
- three fire blankets.

Station having LPG distributors must be additionally equipped with to 6kg powder extinguishers and a fire blanket.

The types of extinguishers on a site (building) must correspond to the types of fire that can occur at such site. Fuel stations must have fire-fighting water sources of 10m³/s capacity. When placing extinguishers, one must ensure that they are protected, if possible, from atmospheric conditions, be placed under the roof or in special, properly labelled, cases.



OHS training and education ensure safety on the building site

According to the accident statistics for 2017 from the Main Statistical Office, the accident rate dropped compared to the previous year. However, the number of casualties in fatal accidents rose by 12.6%.

According to the preliminary statistical data of the GUS, over 88 thousand accidents occurred in Poland in 2017. This is approx. 0.5% more than 2016. However, the accident rate, i.e. the number of injured per 1000 workers, dropped from 7.07 to 6.84.

Broken down by region, the **highest** accidents rates were recorded in the following regions: Lower Silesia (8.98), Varmia-Masuria (8.44) and Greater Poland (8.15); the **lowest** – Mazovia (4.76) and Lesser Poland (5.16).

The most accident-prone industries include: water supply, waste and waste-water management, and mining and extraction.

The lowest accident rate was that in IT and transport. The construction industry, which had been top until recently, now ranked mid-range.

Marek Maszewski, Head of Supervisory Department at SEKA S.A., reminds that training and educating have positive impact on the awareness of both employees and employers. Since 2010, this has been the subject of the operations of the Safety in Construction Alliance having developed inter alia: uniform OHS standards effective at all buildings sites run by the signatories to the Alliance, including OHS training standards.



How to establish OHS Service in a company?

Employers have been provided with detailed guidance on how to create OHS Service – it cannot include person who fail to meet the qualification requirements set out in relevant provisions of the law. The structure and size of the OHS Service is determined by the number of employees, which determines not only the form of employment of OHS inspectors or OHS specialists, but also its size.

The Labour Code does not set out details of how OHS Service should be managed. All details in this respect can be found in the Regulation of the Council of Ministers on the occupational health and safety service of 2 September 1997 (Dz.U.109.704, as amended), which is applicable to all employers.

Prior to selecting the form and number of OHS Service members, an employer must take into account the level of employment and working conditions as well as any occupational risks and work arduousness in the workplace.

Thus, in accordance with the provisions, a company employing more than 100 employees must set up OHS Service, whereas a small business (up to 100 employees) can entrust the OHS Service's duties to an employee employed at another position. In the absence of a person having the required qualifications, the duties of OHS Service should be outsourced to third-party specialists.

The issues of OHS Service are subject to supervision from PIP (State Labour Inspectorate).



Businesses exploiting Masurian lakes will be audited

The President of Wody Polskie, Przemysław Daca, announced during a session of the Parliamentary Environmental Committee, that businesses exploiting Masurian lakes belonging the State Treasury can expect to be audited for, inter alia: verification whether an investor obtained proper permission to build a pier.

The President said that his staff had reported a number of irregularities in Masuria, including building piers without water-law permits and alterations to the shoreline. He announced that applying the competences of the Regional Administration of Water Management in Białystok, the inspectors will pay particular attention to those matters.

He added that where the auditors detect irregularities, fines will be imposed on the perpetrating businesses.

He stressed that he did not agree with the opinion that the payments under Water Law pertaining to water-tourism businesses would lead to their bankruptcy.

Mr Daca also reminded that under the law fees for the exploitation of water-covered land vary: from 1 grosz (PLN 1/100) per square metre of such land, where the piers are publicly available, to 8 PLN a year, where it is not the case and the land is used for business purposes.



Types of disciplinary action

An employer can punish a non-subordinating employee with a disciplinary sanction. In doing so, he should remember that a sanction can only be imposed in compliance with the procedure prescribed in labour law.

Under the Labour Code, an employer cannot impose disciplinary penalties other than those set out in Art. 108.

For failure of an employee to comply with the prescribed organisation and order in the work processes, health and safety regulations, fire protection regulations, and the established manner of clocking in and out, and justifying absence from work, an employer can impose:

- admonition,
- reprimand.

Whereas in the event of violations against health and safety regulations, fire protection regulations, unjustified absence from work, reporting to work in a state of intoxication or drinking alcohol at work – the employer can also impose a fine.

Under section 3, a fine per a single violation, and for every day of unjustified absence, must not exceed a single-day wage of the employee in question, and the aggregate fines must not exceed a tenth of the remuneration payable to the employee, after relevant deductions under Art.87(1)(1)-(3) have been made.