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Labour Law and Employment Poland | 2023 Guide



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EMPLOYMENT CHARACTERISTICS

Employment contract types

There are three types of employment agreements in Poland:



Employment agreement for trial period



Employment agreement for definite period



Employment agreement for indefinite period

The agreement for trial period can be concluded for a maximum of 3 months. This type of agreement can precede employment agreement for definite or indefinite period.

The agreement for definite period can be concluded for a maximum of 33 months. Moreover, it is possible to conclude only 3 of such agreements in a row. The agreement which exceeds the total of 33 months or is a 4th agreement in a row will be considered as the agreement concluded for indefinite period.

All foreigners, EU, and non-EU residents can be employed on the basis of the same types of agreements as Polish citizens.

Non-EU residents



The foreigner has to obtain a work permit and possess legal basis to reside in Poland in order to perform work in Poland. Such permit is issued on a request of employer by competent local authority (in Polish: wojewoda).

The procedure lasts approximately 2-3 months. Further, the work permit constitutes a basis to obtain working visa in the country of foreigner's residence, that constitutes the legal basis to reside in Poland.

Citizens of Republic of Armenia, Republic of Belarus, Republic of Georgia, Republic of Moldova and Ukraine can perform work in Poland based on employer's statement of intention to employ a foreigner. The following conditions should be met:

- The foreigner cannot work longer than 24 months on such statement
- Performed work cannot constitute seasonal work for which work permit is needed i.e. be performed for a period of not more than 9 months in a calendar year in the sectors of agriculture, horticulture, tourism as part of seasonal activities listed in the Regulation of the Minister of Family, Labour and Social Policy of December 8, 2017, on activity subclasses according to the Polish Classification of Activities (PKD), in which seasonal work permits for a foreigner are issued. The employer's statement needs to be registered by Poviast Labour Office. The procedure takes approx. 9 days.

EU residents

The work permit is not required in case of citizens of EU and EEA and Switzerland. Residents of these countries are allowed to perform work under the same conditions as citizens of Poland. However, if the foreigner (EU resident) plans to stay in Poland longer than 3 months, he/she should register his/her stay in provincial office.

EMPLOYMENT CONTRACT MINIMUMS

An employment agreement should specify the parties of the agreement, the type of agreement, the date of its conclusion, as well as the work and remuneration conditions, including in particular:



The type of work



The place where the work is performed



The remuneration corresponding to the type of work, with a specification of the remuneration components



The working time



The starting date of employment

Furthermore, the employer must inform the employee in writing, not later than within 7 days from the date of concluding the employment contract, about:

- The standard daily and weekly working time binding the employee
- The frequency of the remuneration payments
- The length of annual leave to which the employee is entitled
- The length of the notice period binding upon the termination of the employee's employment contract
- The collective labour agreement the employee is governed by.

If the employer is not obliged to establish work regulations – they should additionally inform the employee about the night-time hours, the place, date and frequency of remuneration payments, and the adopted procedure of confirming the arrival and presence of employees at work, as well as the procedure of excusing their absence from work.

The remuneration in Poland cannot be lower than minimum wage, which is determined by the Council of Ministers each year. As of the 1st January 2023 the minimum wage amounts to PLN 3.490 gross. Starting 1st July 2023 it will be increased to PLN 3.600 gross.



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TERMINATION OF THE EMPLOYMENT

Alternatives

There are 3 methods of terminating employment agreement in Poland:



Termination by mutual consent



Termination with notice



Termination without notice

Notice period

The employment agreements can be terminated by notice given by each party. The termination notice period depends on the period of employment. Notice periods for definite and indefinite period agreements are the following:

2 weeks if the employee was employed for less than 6 months

1 month if the employee was employed for at least 6 months

3 months if the employee was employed for at least 3 years

In case of agreement for indefinite period, the employer's notice of termination should state the reason justifying the termination. Probably in the first part of 2023 the requirement to state a reason of termination notice will be extended to agreements for definitive term.

The law in Poland does not provide the list of possible reasons, but according to Polish judicature, the reason should be real, concrete and understandable for employee.

In case of agreements for trial period, the periods of termination notice are the following:

3 business days if the trial period does not exceed 2 weeks

1 week if the trial period is longer than 2 weeks

2 weeks if the trial period is 3 months

Termination without notice

An employer may terminate an employment agreement **without notice**:

- In the event of a severe violation by the employee of the employee's basic duties
- If the employee commits an offence, which prevents further employment in the occupied job position - if the offence is obvious or has been convicted by a final court judgement
- If the employee, through his/her fault, loses a license required to perform work in the occupied job position
- If an employee is unable to work as a result of an illness:
 - for more than 3 months - if the employee has been employed with a given employer for less than 6 months
 - for longer than the total period of receiving remuneration and welfare and sickness benefits on that account, as well as receiving rehabilitation allowance for the first 3 months - if the employee has been employed with a given employer for at least 6 months, or if the incapacity to work was caused by an accident at work or an occupational disease
- If an employee has any justifiable absence from work for other than aforementioned reasons, lasting for more than 1 month.

An employee may terminate an employment agreement **without notice**:

- If he/she received a medical certificate declaring a harmful effect of the work performed on the health of the employee, and the employer, within the period determined in the medical certificate, fails to transfer the employee to another position appropriate for his/her health condition and corresponding to his/her professional qualifications
- In the event of severe violation of employer's basic duties, in such case the employee is entitled to compensation in the amount of remuneration for the notice period.



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CONTRIBUTIONS AND INCOME TAX

The employer is obliged to pay monthly contributions to social and health insurance and advances on the income tax. The tax advance should be paid until 20th day of the next calendar month. The contribution to social insurance should be paid until 15th day or 20th day of the next calendar month (depending on the legal status of the remitter).

The amounts of personal income tax owed in Poland are presented in the table below.

Basis for tax calculation	Tax amounts
Up to PLN 120,000.00	12% - amount decreasing the tax PLN 3,600
Above PLN 120,000.00	PLN 10,800.00 + 32% of surplus over PLN 120,000.00

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The amounts of contributions in Poland are presented in the table below.

Contribution	Employee	Employer
Retirement pension contribution	9.76%	9.76%
Disability pension contribution	1.5%	6.5%
Sickness contribution	2.45%	N/A
Accident contribution	N/A	from 0.67 % to 3.3%
Health insurance	9%	N/A
Labour Fund	N/A	2.45%
Guaranteed Employee Benefits Fund	N/A	0,1%
TOTAL	22.71%	19.48% – 22.11%



WORKING TIME AND VACATION

General requirements

Working time should not exceed 8 hours per day and an average of 40 hours per an average five-day working week. **For the work performed in excess of the working-time standards employee is entitled to an allowance.** If it's justified by the type of work or the organization thereof, the employer can introduce the other working-time systems which allow to extend daily amount of working time. Specific requirements related to this matter are indicated in the Polish Labour Code.

Paid leave



An employee is entitled to an annual, paid vacation leave amounting to 20 days - if an employee has been employed for less than 10 years, or to 26 days if an employee has been employed for at least 10 years. In case of an employee who possess intermediate or severe level of disability, such employee is entitled to additional 10 days of annual paid vacation leave.

Periods of previous employment, regardless of intervals in employment and how the employment relationship ended, are counted into the employment period determining the right to leave and the length of leave.

Graduating from the following schools means the following periods are counted into the employment of period on which the length of leave is based:

- Basic or other equivalent vocational school - the duration of the education provided for by the syllabus, but not more than 3 years
- Secondary vocational school - the duration of the education provided for by the syllabus, but not more than 5 years
- Secondary vocational school for graduates of basic (equivalent) vocational schools - 5 years
- Middle comprehensive school - 4 years
- Post-comprehensive school - 6 years
- School of higher education - 8 years.

The periods of education cannot be aggregated.

If an employee attended school while being employed, the employment period determining the length of leave includes either the duration of employment while attending school, or the duration of attending school, whichever is the more favourable to the employee.

In the event of changing the employer during the year, the employee is entitled to paid leave as follows:

- With current employer - in an amount proportional to the period worked at this employer in the calendar year in which employment relationship ends, unless the employee has already used up or exceeded the leave he is entitled to
- With new employer - in the amount:
 - proportional to the time remaining until the end of the calendar year - if the employee is employed for a period not shorter than up to the end of the calendar year, or
 - proportional to the employment period in the calendar year – if the employee is employed for a period shorter than up to the end of the calendar year.

An employee who has exceeded the leave he/she is entitled to during employment (with the prior employer), is entitled to leave with the new employer in an appropriately reduced amount. The total length of leave within a calendar year cannot be shorter than the amount resulting from the employment period, as indicated above.

Legislative work on the amendment to the Labour Code has been underway since 2016. One of the proposed changes is the introduction of new kinds of annual leaves, such as: 2 days or 16 hours of annual leave due to the force majeure (paid in the amount equal to 50% of remuneration), and 5 days of annual care leave (unpaid). These changes will enter into force probably in first half of 2023 together with the new provisions concerning, inter alia, parental leave, which are required due to EU directives.

Sickness leave

For the period of an employee's incapacity to work, the employee retains the right to the sickness remuneration. The sickness remuneration is due in amount of 100 % or 80 % of regular remuneration depending on the cause of the incapacity. The employer is obliged to pay the sickness remuneration for the first 33 days of incapacity in any given calendar year. If the incapacity lasts longer the employee is entitled to receive sickness benefit paid by social security institution for a period of up to 182 days, including the previous 33 days of sickness remuneration in this limit of days.

Unpaid leave



At the written request of an employee, the employer in Poland can grant unpaid leave to the employee. The period of unpaid leave is not counted into the employment period on which the employee's rights are based.

When granting unpaid leave longer than 3 months, the parties may provide a possibility to recall the employee from leave for important reasons.

An employer can also grant an employee, with the written consent of the employee, unpaid leave to perform work at another employer for a period set out in an agreement concluded on this matter between the employers. The period of such leave is counted into the period of work on which the employee' rights at the existing employer are based.



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TEMPORARY WORK

General aspects

According to Polish law, temporary work shall be understood as:

- Seasonal, periodic, or casual work; or
- Work that the employees of the user-employer would not be able to perform on time; or
- Work that falls within the scope of duties of an employee of the user-employer who is absent.

The legal scheme of temporary employment is the following:



A temporary work agency concludes a contract with a user-employer setting forth the rules of leasing of the temporary employee



The temporary work agency employs a temporary employee



The temporary work agency assigns the temporary employee to perform temporary work for the user-employer

It shall be stressed out that the temporary employee remains the employee of the temporary work agency at all times. But it is the user-employer who instructs the temporary employee and subsequently supervises his work.

It shall be noted that unless regulated in Act on Employment of Temporary Workers otherwise, the provisions of the Labour Code and other labour laws concerning the employer and the employee apply accordingly to temporary work agency, temporary employee, and user-employer. The only exception is the regulation related to group redundancies.

Minimum requirements and limitations

The temporary work agency should agree with the user-employer in writing, at least on the following:

- The type of work to be entrusted to the temporary employee
- The qualifications required from the temporary employee to perform assigned work
- The expected duration of the temporary employment
- The working hours of the temporary employee

- The place of performing the temporary work
- The scope of information regarding the performance of the temporary work that affects the level of remuneration for the temporary employee's work, as well as the method and deadlines for providing this information to the temporary work agency in order to correctly calculate the employee's remuneration
- The extent to which the user-undertaking assumes the obligations of the employer with respect to health and safety at work
- The extent to which the user-undertaking assumes the obligations of the employer with respect to payments to cover business travel expenses.

The user-employer shall also inform the temporary work agency about the remuneration and its structure (bonuses, fees, additional payments) and also health and safety conditions.

The temporary work agency may not assign the temporary employee with temporary work for a single user-employer for a total period of work exceeding 18 months within a period of 36 successive months. The user-undertaking can use the temporary employee for not more than 18 months within a period of 36 successive months.

There is an exception only in a situation when the temporary employee performs temporary work for the benefit of a given user-employer in a continuous manner, and the work includes performing the tasks of an absent worker of the user-employer. In such a case the temporary work can be performed for maximum of 36 months. The break between the employment for the same user-employer shall last at least 36 months.

Temporary work agencies - obligations

The activity of temporary work agency is regulated by Polish state. In order to conduct such activity each entity should register in the National Register of Employment Agencies kept by the marshal of the voivodship. In order to be registered as a temporary work agency the following conditions shall be fulfilled:

- The entity cannot have tax, social security, health insurance and the Labour Fund, Guaranteed Employee Benefits Fund and the Bridge Pension Fund arrears
- The entity cannot be criminally recorded
- The entity cannot be subjected to bankruptcy or liquidation proceedings
- The entity should have real not virtual office.

The employment agency has an obligation to provide the marshal of the voivodship with a report on the activities of employment agencies - within January 31st of each year for the preceding year - containing in particular the number of persons assigned to perform temporary work.

In the documents, announcements and offers the temporary work agency is obliged to disclose the registration number and label the job adverts for temporary employment as "temporary jobs".



EMPLOYEE CAPITAL PLANS

General information

Employee Capital Plans (PPK) is a voluntary pension saving system for all persons paying the social security contributions, regardless of the form of employment. This is a universal social program which aim is to increase the financial security of Poles.

Regulations concerning PPK are included in the Act on Employee Capital Plans from October 4, 2018. The participation in PPK is voluntary for the employees. They may resign from it based on written declaration.

On the other hand the employer is obliged to join the PPK in case it employs at least 1 person. There is only one exception for employers being microentrepreneurs, whose all eligible persons resigned from participation in PPK. Such employer is not obliged to join the program. However, such employer shall constantly observe whether it fulfils the requirements of allowed exception.

The obligatory basic contribution is financed by both the employee and the employing entity's funds.

The scheme below depicts the contribution rates:

OBLIGED ENTITY	THE AMOUNT OF PAYMENT
State Welcome Payment	250 PLN
State Annual Payment	240 PLN
Employer Basic contribution	1,5% of basis of pension and disability insurance contribution
Employer Additional contribution	2,5% of basis of pension and disability insurance contribution
Employee Basic contribution	2% of basis of pension and disability insurance contribution
Employee Additional contribution	2% of basis of pension and disability insurance contribution

Funds accumulated in PPK will be paid to the participant after reaching the age of 60 (the legislator introduced the same age for women and men in accordance with the principles of equal treatment in relation to voluntary pension schemes for employee). This payment will be divided into one-off payment (equal to 25% of accumulated capital) and the other parts (equal to 75% of accumulated capital) paid for the period of 10 years and divided in 120 monthly instalments.



OVERVIEW OF APPLICABLE LEGISLATION

- Labour Code dated 26.06.1974
- Act on promotion of employment and labour market institutions dated 20.04.2004
- Act on minimum remuneration for work dated 10.10.2002
- Act on personal income tax dated 26.07.1991
- Act on social insurance system dated 13.10.1998
- Act on employment of temporary workers dated 09.07.2003
- Act on employee capital plans dated 04.10.2018.

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