Global Employment Compass

Poland

Contents

PILnet and partners participating in this Global Employment Compass guide are not liable towards third parties for the accuracy of the information contained in this guide. The information contained herein does not set out a comprehensive picture of the law and is not tailored to any particular circumstances. It should not therefore be seen as a substitute for obtaining legal advice. The guide was last updated in October 2023 and responds to the legal framework in effect at that time.

1. Summary of applicable rights for different categories of workers

	Employees (part-time or full-time)	Independent contractors/ service providers	Volunteers
Employment laws and regulations	Yes	No*	No but with some exceptions**
Employees' compensation/ remuneration requirements	See below	See below	See below
Minimum wage requirements	Yes	Potentially yes***	No***
Mandatory provident fund/retirement benefit fund contributions	Yes	Yes****	No
Immigration requirements including the right to work in your country	Please see answers below	Please see answers below	Please see answers below
Personal Data (Privacy) laws and regulations	Yes	Yes	Yes
Anti-discrimination laws and regulations	Yes	Yes	Yes

* assumes a genuine self-employed independent contractor/service provider arrangement and the individual not being deemed to be an employee or worker

** in general, the Labour Law provisions do not apply to volunteers, unless expressly provided otherwise

*** minimum wage (minimum hourly rate) requirements apply to civil law contractors and solo self-employed persons who do not employ workers

**** volunteer is defined as an individual who performs tasks voluntarily and without remuneration

***** civil law contractors and solo self-employed persons are covered by obligatory retirement social insurance. As a rule, civil law contractors are subject to compulsory social insurance (i.e. pension-retirement, incapacity and accident insurance) and health insurance.

2. Legal requirements/rights/practices for different categories of workers

a. Employees

Section Contents

Definition of an employee

An employee is a person employed under a contract of employment, nomination, election or designation, or a cooperative employment contract.

There is no legal definition of an employment contract. The definition of an employment relationship is as follows: by entering into an employment relationship, the employee undertakes to perform work of a specific kind for and under the direction of the employer and at a place and time designated by the employer, and the employer undertakes to employ the employee for remuneration.

1 Contracts of Employment

What types of employment contracts are available? E.g. fixed term, part time, zero hour contracts, other? Are there any specific employment contracts available for non-profit organizations?

There are three types of employment contract covered by Labour Law provisions, i.e. the probationary employment contract, definite employment contract and indefinite employment contract. Under an employment contract, the employee may be employed full time or part-time. Zero-hour contracts are not in use in Poland.

Non-profit organizations may employ persons under employment contracts and become employers. However, the most popular legal forms of engaging workforce with non-profit organizations are civil law contracts (a contract for service or apprenticeship contract) and volunteering agreements.

What are the key terms of employment contracts?

The employment contract should specify the parties to the contract, the address of the employer's registered office, the type of contract, the date of the contract's conclusion and the conditions of work and pay, in particular:

For all types of contracts:

- the type of work;
- the place or places of work;
- remuneration for work corresponding to the type of work performed and the qualifications required for its performance (taking into account the quantity and quality of the work provided), indicating the elements of remuneration;
- working time (i.e. part-time or full-time);
- the start date of work.

In the case of a probationary employment contract:

- its duration or the day on which it ends;
- a provision for extending the probationary contract for the duration of leave and for the duration of the employee's other allowed absence from work, if such absences occur (optional);
- the period for which the parties intend to conclude a fixed-term employment contract if, after the trial period, they intend to conclude a fixed-term employment contract of less than 12 months;
- a provision for extending the probationary contract for the period of one month, or two months (for an additional one month at a time), if the type of work performed requires it (optional).

In the case of a fixed-term employment contract:

- its duration or the day on which it ends.

As a rule, the contract must be in Polish. It may be in another language - at the request of a non-Polish citizen who has a command of another language and who has been informed about the right to conclude the contract in Polish.

Further 'Additional Information' must be provided to the employee in writing within 7 days of the employee's admission to work (i.e. the date on which the employee starts to provide work, with the consent and knowledge of the employer). The scope of this information varies depending on whether the employer is obliged to adopt a Work Regulation (WR) or not. A WR is an employer's internal rules/procedures and employers with 50 or more employees are required to adopt them. Employers with at least 20 employees may be required to adopt a WR upon request by a trade union. The 'Additional Information' includes:

- the daily and weekly working time standards applicable to the employee;
- the daily and weekly working hours;
- the breaks at work to which the employee is entitled;
- the daily and weekly rest periods;

- the rules on overtime and compensation for overtime;
- in the case of shift work, the rules on the transition from shift to shift;
- in the case of several workplaces, the rules on movement between workplaces;
- the elements of remuneration and benefits in cash or in kind to which the employee is entitled, other than those agreed in the contract of employment;
- the amount of paid leave to which the employee is entitled, in particular annual leave, or the rules for determining and granting it;
- the applicable rules on termination of the employment relationship, including the formal requirements, the length of the notice periods and the time-limit for appeals to an employment court, or the method of determining such notice periods;
- the employee's right to training, if provided by the employer, and in particular the general principles of the employer's training policy;
- whether the employee is covered by a collective agreement (and if so, which agreement).

If the employer is not obliged to establish work regulations, additionally information about work required at night time; the place, date and time of the remuneration payment; and the method adopted for confirming the arrival and presence at work of employees and justifying their absence from work.

In addition, no later than 30 days from the date of the employee's admission to work, the employer must inform the employee of the name of the social security institutions to which social security contributions relating to the employment relationship are paid and provide the employee with information on the social security protection provided by the employer.

There are some special rules on employment contracts for young employees. A juvenile employee is a person who is at least 15 years old and under 18 years old. A juvenile employee may only be employed for the purpose of occupational training or for carrying out so-called light work. A juvenile employee employed for occupational training must be employed for an indefinite period of time. A juvenile employee employed for carrying out light work may be employed under an employment contract for a probationary period, for a definite period or for an indefinite period.

The contract of employment for occupational training should specify in particular: the type of occupational training (vocational training or training for a specific job), the duration and place of occupational training, and the method of theoretical training and the amount of remuneration.

The contract of employment for light work consists of the same elements as a 'regular' employment contract.

Is it acceptable to have a probation period for employees? If yes, for how long?

In principle, the conclusion of an employment contract for a probationary period is permitted. It can precede both fixed-term and indefinite-term employment contracts.

A probationary employment contract may be concluded only once for a period of:

- one month - where the intention is to conclude, after a trial period, a fixed-term employment contract of less than six months;

- two months - where the intention is to conclude, after the trial period, a fixed-term employment contract of at least six months and less than 12 months; or
- three months - where it is the intention to conclude after the trial period an employment contract for a fixed-term of at least one year or for an indefinite term.

The parties may extend the trial period, but not more than for one month, if justified by the type of work performed by the employee.

A probationary period may be entered into with an existing employee only when the employee is to be employed to perform a different type of work from the work they are currently performing.

Are fixed term employment contracts permissible? Are there any limitations on fixed term contracts? Are there any requirements to have a fixed term contract?

Fixed-term contracts are permissible.

A fixed-term contract may be concluded for a combined period of no longer than 33 months. If the period of employment under one or more such contracts exceed 33 months, then by operation of law the employee becomes employed for an indefinite period. An exception is made for contracts concluded for the purpose of:

- replacement of an employee during their permitted absence from work;
- performance of any work of a casual or seasonal nature;
- performance of any work performed during tenure as an officer of a company;
- if there is an objective reason on the part of the employer that justifies it, for a fixed-term contract to be extended beyond the established limits.

Under these exceptions, the purpose or circumstances justifying the use of the exception will have to be stated in the employment contract.

No more than three fixed-term contracts can be concluded with the same employee, as the fourth one is deemed permanent by operation of law. Annexes prolonging the existing contract are treated in the same way as a new contract.

An exception is made for contracts concluded for the purpose of:

- replacement of an employee during their permitted absence from work;
- performance of any work of a casual or seasonal nature;
- performance of any work performed during tenure as an officer of the company;
- if there is an objective reason on the part of the employer that justifies it, for a fixed-term contract to be extended beyond the established limits.

Under these exceptions, the purpose or circumstances justifying the use of the exception will have to be stated in the employment contract.

The usual formalities apply, except when the fixed-term contract exceeds 33 months or more than three such contracts have been concluded, where there is an objective ground on the employer's side justifying hiring a given person for a longer definite period. In such an event, the employer will be required to notify the regional labour inspector within 5 days of conclusion of the contract.

Also, the purpose or circumstances justifying the use of the exception will have to be stated in the employment contract.

Fixed-term employees have the right not to be less favorably treated than permanent employees.

Do employment contracts have to be in writing? Are there any signatory requirements for employment contracts? For example, could they be signed in-person or electronically, etc.)?

An employment contract should be in writing or there should be at least written confirmation by the employer of the key terms of employment prior to allowing the employee to work. The written formalities are met when the parties exchange hand-signed documents ("wet ink" signature) or when the document is signed with a qualified electronic signatures (QES). It is also permissible to exchange documents in mixed form (the employee signs in wet ink and the employer signs with a QES).

Do employees have to be issued with a written employment contract before they start work?

Please see above.

Can you provide a simple template of the contracts mentioned above?

N/A.

Is there an obligation for an employer to run a criminal record check to the extent that any individual they hire will be working with children or vulnerable people?

Before entering into an employment relationship with a person that relates to the upbringing, education, recreation, treatment or care of minors, employers are obliged to obtain information as to whether the data of that person is included on the Register of Sexual Offenders.

The employer is entitled to request a certificate from the criminal record only if the law so provides (e.g. in the case of schoolteachers, camp leaders and nursery workers).

Can employers request references from former employers for new hires?

It is possible. However, it is not a common practice to do so.

Is an employer required to set up any form of employee representative body? If so, what is the trigger for this?

As a rule, the protection and representation of employees is primarily the function and competence of trade unions.

Trade unions represent employees' interests in relation to:

- individual and collective matters, especially in relation to consultation regarding employment termination;
- transfers of an enterprise;
- collective dismissals;
- negotiating work regulations;
- negotiating remuneration regulations; and

- entering into collective labour agreements.

In order to actively represent the workers with the employer, the trade union active at the level of the enterprise must be recognized as the representative trade union organization of an establishment.

As regards the individual interests of employees, such as protection against termination, the union represents only its own members and, at its discretion, other employees who have asked the union for such protection.

The union is entitled to demand information necessary to undertake trade union activity, in particular conditions of work and pay. If negotiating in respect of the collective interests of employees with the employer does not lead to an agreement, the trade union can start industrial action subject to the rules of the Act on Settlement of Collective Disputes 1991.

Other entities have limited authority in this respect; their competencies are advisory in nature, and their role is to communicate employees' needs to the employer. Such entities have no power to represent employees in collective bargaining.

However, there is a general obligation on employers who employ 50 or more employees to establish work councils. Establishment of a works council is an entitlement and not a duty of employees. The obligation of a works council to carry out consultation exists in relation to:

- an employer's activity and financial condition;
- the amount of manpower;
- the work organization and any proposed changes to it; and
- the legal basis for employment.

In some situations, defined by the law, such as group redundancies, there is an obligation to elect ad hoc employees' representatives if there is no trade union active in an establishment. These ad hoc representatives are elected and consulted irrespective of there being a works council.

In an enterprise employing more than 100 people, an employer is also under a duty to establish a Work Safety and Hygiene Service. In addition to this, in enterprises employing more than 250 people, an employer is also under a duty to establish a Work Safety and Hygiene Committee.

Is it common to have collective agreements in your jurisdiction that apply to all employers in a particular region or sector?

It is estimated that less than 10% of employees in Poland are covered by collective agreements. There are very few collective agreements governing employment relationships in specific industries. Collective agreements are allowed either at the level of an undertaking (between the trade union and the employer) or at national level (between the trade unions and an employer representative body). It is not mandatory for companies to accede to collective agreements agreed at a national level. Where the collective agreement is at the level of an undertaking, trade unions should be consulted on a number of issues.

Collective agreements are common in large industries in which employee organizations have a strong position. They are concluded by way of negotiation, which may be initiated either by the trade union or the employer.

2 Conditions of employment

What is the minimum age requirement for employment?

It is possible to hire a juvenile employee, i.e. a person who is at least 15 years old and under 18 years old. A juvenile employee may only be employed for the purpose of occupational training or for carrying out so-called light work. Light work must not cause danger to the life, health and development of the mental and physical health of the young person, and it must not hinder the young person from fulfilling their school duties.

There is no official list of light work for which juveniles may be employed. The type of work defined as "light work" is determined internally by the employer, who is not allowed to include any work from the lists of work that young people are prohibited from carrying out.

What type of work may a child undertake? For example, are there any specific restrictions?

A juvenile employee may not be employed, among others, for the following jobs: (i) work involving excessive physical exertion, forced body positions or which jeopardize proper mental development; (ii) work with exposure to harmful chemical, physical and biological agents; (iii) work involving the risk of accidents. The new list of work that young people are prohibited from carrying out is provided in the "*Ordinance of the Council of Ministers of 19 June 2023 on the list of work prohibited to young persons and the conditions of their employment in some of this work*".

The employment of children under the age of 16 is, in principle, prohibited. The provision of work to persons of this age is only possible for entities engaged in cultural, artistic, sporting or advertising activities. An employer carrying out activities within the abovementioned categories must meet certain conditions in order to employ a child under the age of 16. Firstly, it is necessary to obtain the consent of the child's legal representative or guardian. Secondly, it is necessary to obtain permission from a labour inspector.

Wages

What is the minimum wage requirement for employees? Are there any exceptions in minimum wages for young persons or people with disabilities?

There is a statutory minimum wage published by the Council of Ministers. The level increases once a year. In 2023, the minimum wage was raised twice, amounting to PLN 3,490 gross (applicable from 1 January 2023 to 30 June 2023) and PLN 3,600 (applicable from 1 July 2023 to 31 December 2023).

There is no exception in respect of disabled employees.

There are special rules on wages for juvenile employees. Juvenile employees employed for the purpose of occupational training are entitled to remuneration calculated as a percentage of the average monthly remuneration in Poland's national economy in the previous quarter (effective from the first day of the month following its announcement by the President of the Central Statistical Office). This percentage ratio is:

- during induction to specific work - not less than 7% of the base salary;
- in the first year of study - not less than 8%;
- in the second year of study - not less than 9%;

- in the third year of study - not less than 10%

Please note that the New Ordinance effective from 1 September 2023 provides for an increase in the amount of minimum wage paid to juveniles performing vocational training work by three percentage points more than the previous minimum percentages.

There is no such precise regulation for young employees employed on light work, and so the general provisions on minimum wages apply to them.

Are there any conditions which warrant a pay raise or extra pay? If yes, what are they?

No, only if agreed as part of the contract, collective bargaining agreement or internal regulation (i.e. remuneration regulations or salary policies).

When are wages due? For example, is there any obligation to pay wages weekly, or monthly?

Payment of wages shall be made at least once a month, on a fixed and predetermined date. The remuneration for work payable once a month shall be paid in arrears, but no later than within the first 10 days of the following calendar month. If the day fixed for payment of wages is a holiday, the wages shall be paid on the preceding day. The components of remuneration for work for periods of longer than one month shall be paid in arrears on the dates specified in the relevant Labour Law provisions.

Are employers obliged to provide employees with paid leave on public holidays?

Employees are entitled to 13 days' public holiday. It is not common for employers to grant more holidays than the minimum required by the law.

Are employers obliged to provide employees with annual leave?

Statutory minimum holiday entitlement is 20 or 26 days per year, depending on length of service. Employees who have worked for less than 10 years are entitled to 20 days and employees with 10 years' service or more are entitled to 26 days. The period on the basis of which holiday entitlement is calculated includes education (described below) and all the time for which the employee has been in employment - both with the current employer and any previous employers.

The length of service that determines the length of holiday leave includes the following periods of education in:

- basic vocational schools or other equivalent vocational schools - the period of education provided for in the curriculum, but in no case more than 3 years;
- secondary vocational schools - the period of education provided for in the curriculum, but in no case more than 5 years;
- secondary vocational schools for graduates of basic (equivalent) vocational schools - 5 years;
- secondary comprehensive schools - 4 years;
- post-secondary schools - 6 years;
- tertiary education institutions (higher education) - 8 years

The periods of education referred to above should not be cumulative.

Some categories of employees (e.g. the disabled or veterans) are entitled to additional statutory holidays. It is not common for employers to grant more holidays than the minimum required by the law.

Where an employee commences their first ever employment, during the first calendar year, they acquire the right to leave at 1/12 of statutory leave after completing each month of work. The right to subsequent leave is acquired by the employee during each successive calendar year.

The employer is obliged to grant an employee holiday leave in the calendar year during which the employee acquires the right to it, taking into account any requests by employees for holiday leave and the need to ensure normal working practices / the normal course of work.

The employer is obliged to grant an employee up to four days of leave per calendar year upon the employee's request and in the period they specify. The employee may request such leave on the day of commencing the leave at the latest.

A holiday leave which has not been taken in the calendar year during which the employee acquires the right to it should be granted to the employee before the end of September of the following calendar year.

An employee may demand a holiday that has not been granted in the periods described above for three years after they acquire the right to it, due to the three year limitation period for claims arising out of the employment relationship. The limitation period does not start or is suspended for any period of up-bringing leave (see below).

An employer may oblige an employee to use their remaining holiday leave during their notice period. In the case of termination of employment, a cash equivalent must be paid for unused annual leave.

Are employees entitled to receive their usual salary during their annual leave?

For the duration of holiday leave, the employee should receive the same remuneration they would receive if they had worked during that period. Variable remuneration may be calculated on the basis of the average remuneration in the three-month period prior to the beginning of the leave. If there are substantial differences in the amounts of variable remuneration, that period may be extended up to 12 months.

The above is due to the fact that determining the amount of an employee's holiday payment, in the amount they would have received if they had worked during the holiday, does not present difficulties in relation to pay components set at a fixed amount. On the other hand, in the case of pay components that vary from one period to another, it is necessary to determine their expected amount at the time of use of the leave. For this purpose, the Labor Code allows the value of variable salary components to be calculated as an average of the three (and, in the case of significant fluctuations, 12) months preceding the month in which the leave begins.

Is there a requirement to pay overtime? How is overtime compensated?

Overtime work is work performed outside standard working hours and entitles the employee to additional remuneration and an overtime allowance of either 50% or 100%of the employee's remuneration (depending on the day or time during which such work is performed).

The overtime allowance is due in the following amounts:

- 100% of remuneration - for overtime work performed:

- at night;
- on Sundays and public holidays (which, according to the employee's working time schedule, are not working days);
- on a rest day given to the employee in exchange for work on a Sunday or a public holiday, in accordance with the employee's working time schedule

- 50% of remuneration - for overtime work on any day other than those set out in the first bullet point above.

In exchange for overtime work, the employer may grant the employee time off (in a 1:1 proportion) at the written request of an employee (or a 1:1.5 proportion if this time off is granted without the employee requesting it and at the initiative of the employer). In these situations, the employee is not entitled to an allowance for overtime work.

Overtime work is permissible in some extraordinary cases, such as rescue operations or due to special needs of the employer (i.e. needs that are not normal, foreseeable needs occurring in connection with the employer's business activities).

Overtime work due to the special needs of the employer is limited on an annual basis. However, there are no limits on overtime hours worked in connection with rescue operations.

Annually, the number of overtime hours worked due to the special needs of the employer may not exceed 150. Mentioned limit can be changed in the collective bargaining agreement, work regulations and - in some circumstances - in the employment contract (if the employer is not covered by a collective bargaining agreement or is not required to issue work regulations) to the maximum amount of 416 hours per year.

Are there any extraordinary circumstances that could be relied on to temporarily cease paying employees for the hours worked?

There are no such circumstances in law that allows an employer to stop paying wages due.

Where an employee does not perform work, if they were ready to perform work but were prevented from doing so for reasons attributable to the employer that are of a technical or organizational nature, they shall be entitled to remuneration according to their personal classification, determined by an hourly or monthly rate. If such a remuneration component has not been distinguished when determining the terms and conditions of remuneration, the rate will be 60% of the remuneration. In any case, however, this remuneration may not be lower than the minimum remuneration rate, which is established pursuant to separate regulations.

In addition, if justified by the financial situation of an employer - and where an employer is not covered by a collective agreement or employing fewer than 20 employees - an agreement may be concluded to apply less favorable terms and conditions of employment than those in the employees' employment contracts (to the extent and for the duration established in the agreement with the employees' representatives). These representatives must be selected in accordance with the procedure adopted by the employer.

Are employees entitled to an end-of-year payment?

No, unless this is contractually agreed or granted by a collective bargaining agreement or internal regulations.

Are employees entitled to payments when their employment contract is terminated, such as notice or notice pay, accrued or untaken holiday and/or statutory severance?

Notice periods are dependent on the type of employment contract and length of service.

For a permanent or fixed-term contract, notice is:

- two weeks - if the employee has worked for less than six months;
- one month - if the employee has worked for at least six months but less than three years; and
- three months - if the employee has worked for three years or more

Where the employee has been working on a trial period, they are entitled to notice of:

- three days - if the trial period lasts for up to two weeks;
- one week - if the trial period lasts for more than two weeks but less than three months; and
- two weeks - if the trial period lasts three months

The notice period is treated as a normal period of work and is fully paid.

An employer may oblige an employee to use their remaining holiday leave during their notice period. In the event of a failure by an employee to take their holiday leave in full or in part due to the termination of their employment relationship, the employee has the right to a cash equivalent for their unused holiday.

During the notice period the employee may be relieved of their obligation to perform work (but will still retain their right to remuneration for work) (garden leave).

Statutory severance payments can apply (e.g. in the event of redundancy or retirement).

Working hours

What is considered a full time working week? If the employee is contractually required to work less than this amount are they considered a part time employee?

The daily and weekly working hours of a full-time employee are 8 hours per day and an average of 40 hours per week, within a four-month reference period. The employee who is employed for less hours/days per week than this is considered a part-time employee.

Weekly working time, including overtime work, cannot exceed an average of 48 hours in the adopted settlement period. This rule does not apply to managers of an establishment on the employer's behalf i.e. (i) employees who manage the workplace single-handedly and their deputies; (ii) employees who are part of the collegiate governing body of the workplace; and (3) chief accountants.

Employees are entitled to at least 11 hours of undisturbed rest per day and at least 35 hours of undisturbed rest per week. This rule does not apply to managers of an establishment on the employer's behalf or in the event of a necessary rescue operation.

Are there fixed public/statutory holidays each year? Can employees be required to work on public/statutory holidays? Are employees entitled to any other type of leave besides public/statutory holidays?

Public holidays

Sundays and public holidays are the statutory days off. Work on such days is allowed only in the exceptional circumstances listed in the Labour Code, including among others:

- shift work;
- the weekend working-time system (a working time system in which work is performed only on Fridays, Saturdays, Sundays and public holidays);
- work within the scope of services performed via electronic communication or telecommunication devices (as prescribed by law) to foreign recipients. This is provided that the relevant Sunday or public holiday is a normal working day in the country of the service recipient (as prescribed by law).

In general, an employee who legally works in the aforesaid circumstances must get another day off in exchange for work on a Sunday, within 6 calendar days preceding or following the relevant Sunday (and a day off in exchange for work on a public holiday, within the settlement period). Otherwise, a Sunday work allowance (at the rate of 100% of normal remuneration) is due.

An employee working on Sundays must have at least 1 work-free Sunday in every 4 weeks (with minor exceptions such as a weekend working-time system).

Work on Sundays and public holidays - as well as the time off granted to the employee for such work - has to be reflected in the employee's working time record.

If the public holiday falls on a day other than Sunday, which is not a working day of the employee according to their working-time schedule, the employer must guarantee an additional free day to the employee.

Annual leave

Statutory minimum holiday entitlement is 20 or 26 days per calendar year, depending on the length of time the employee has been in employment (including documented periods of employment abroad). In Poland it is rare to vary the statutory provisions regarding holiday leave in any way. Also, the employees cannot "purchase" additional holidays for remuneration or waive rights to holiday leave.

Time off for care reasons

A right to two paid days' or 16 hours' leave in a calendar year for a child under 14 (irrespective of the number of children). The first request each year decides whether the time off will be calculated on an hourly or daily basis.

A right to a leave to care for a family member (at 80% of pay, covered by social security) for up to 60 days in a calendar year (up to 60 days for care of a child under 8 or an ill child under 14 and up to 14 days for the care of a child aged 14 or older or other family member, irrespective of the number of family members).

A right to unpaid care leave of five days per calendar year to provide personal care or support to a family member (children, parents, spouse) or a person living in the same household who requires care or support for serious medical reasons. The leave is granted at the request of the employee, submitted not less than one day prior to the commencement of such leave.

A right to time off from work of 2 days or 16 hours during a calendar year for reasons of force majeure for urgent family matters caused by illness or accident, if the employee's immediate presence is necessary. During this time off, the employee retains the right to be paid half of their

remuneration. The first request each year decides whether the time off will be calculated on an hourly or daily basis. Time off is granted at the employee's request no later than the day on which the time off work is taken.

Occasional days off

The law provides for personal circumstances in which an employee gains additional days off and an employer is obliged to release the employee from work for a period of:

- 2 days - in the event of the employee's wedding or the birth of the employee's child or the death and funeral of the employee's spouse or employee's child, father, mother, stepfather or stepmother;
- 1 day - in the event of the wedding of the employee's child or the death and funeral of the employee's sister, brother, mother-in-law, father-in-law, grandmother, grandfather, or any other person dependent on the employee or under the employee's direct care.

The employee retains the right to remuneration for the period of absence caused by the above circumstances.

*Please see the description of parenthood-related leave below.

Do part time employees receive any particular protection on the basis of their part-time status?

Yes. Part-time employees have the right not to be less favorably treated than full-time employees.

Do part-time employees receive the same pro-rated terms to full time employees, e.g. in relation to pay and benefits?

Yes.

Social security

What social security contributions are employers obliged to pay? Presumably, pro-rated contributions are required for part time employees?

Employers are obliged to pay the following contributions to Social Insurance Institution (ZUS):

- for social insurance: pension, incapacity, accident, sickness;
- for health insurance;
- for the Labour Fund;
- for the Guaranteed Employee Benefits Fund

Social security contributions are financed either by the employee and the employer, the employee alone or the employer alone. Calculation and deduction of the contributions is on the employer.

Contributions are based on the income received by the employee and amount to:

- for pension insurance - 19.52% of the base amount;
- for incapacity insurance - 8% of the base amount;
- for sickness insurance - 2.45% of the base amount;

- for accident insurance - 0.67% to 3.33%, of which the contribution for accident insurance for a small company employing up to 9 people is 1.67%;
- for the Labour Fund - 2.45% of the base amount;
- for the Guaranteed Employee Benefits Fund - 0.10% of the basis of the base amount

Contributions are financed as follows: the costs of the pension contribution are split equally between the employer and the employee, the incapacity contribution is divided in the proportion of approximately 77% to 23%, with the following contributions: accident insurance, the Labour Fund and the Guaranteed Employee Benefits Fund are paid exclusively by the employer. Sickness and health contributions are paid exclusively by the employee.

Are employers obliged to provide health insurance to their employees?

In general, employees are covered by the public social insurance system.

Employers tend to cover the employees with additional insurance benefits, such as group health insurance or accident insurance. It is also common for employers to have civil liability insurance to cover potential payments in the event of unfortunate accidents.

Are employees entitled to unemployment insurance/benefits following the end of employment?

If the unemployed person meets the criteria for a benefit and is registered with the district Labor Office, they are entitled to an unemployment cash benefit.

Unemployment benefits are available to persons who have worked for a minimum of 365 days in the 18 months preceding their registration at the Labour Office as an unemployed person and the person has not been offered a suitable job, an apprenticeship, adult vocational training, training, intervention work or public works. The requirement, however, is that a person who has worked for a minimum of one year must have received at least the minimum wage during that time. The size of the job is irrelevant, so it could have been a 1/2 or 2/3 time employment.

Unemployment benefits are financed by the Labour Fund and paid by the Labour Office.

Are employers obliged to provide sick leave? If yes, for how long? How many days have to be paid by employers? Is it possible to have unpaid sick leave?

Employees who are unable to work due to illness or injury must provide a medical certificate in order to be entitled to sick leave. Currently all employers in Poland are able to get immediate access to medical certificates issued for their employees in an electronic form via an online platform – the Electronic Services Platform of Social Insurance Institution, or "PUE" for short.

During the first 33 days of incapacity due to illness (14 days in the case of employees aged 50 or more), the employee is paid 80% of their salary (the employer can pay more if it chooses to do so). Employees are entitled to 100% of their salary if the incapacity is caused by any of the following:

- an accident on their way to/from work;
- illness during pregnancy; and
- medical tests carried out on candidates for cell, organ or tissue donors

From day 34 of sickness onwards (from day 15 for employees aged 50 or more), sickness benefits are paid by the state.

In the case of an accident at work, sickness benefits at the rate of 100% of the salary are paid by the Social Security Agency from the first day of absence.

Are employers obliged to provide maternity leave for employees? If yes, for how long? How many days/months have to be paid by employers? Is it possible to have unpaid maternity leave?

The law provides for the following types of parenthood-related leave:

Maternity leave

20 weeks, increasing to 31 - 37 weeks (for multiple births) on full pay by social security.

Female employees may use no more than 6 weeks of maternity leave before the child's birth date. After using 14 weeks of maternity leave from the birth date at the earliest, the female employee may waive the remaining part of the maternity leave to another person. In such a case, a father who is an employee or otherwise covered by social insurance, or another family member who is an employee, may interrupt their work to care for the child and utilize the remaining part of the maternity leave at their written request.

Paternity leave

A father bringing up a child (up to 12 months old) is entitled to two weeks' paternity leave on full pay by social security. The paternity leave may be taken in one or two parts, none of which may be shorter than one week.

Parental leave

Parental leave lasts 41 or 43 weeks (depending on the number of children born), with the reservation that each employee-parent of the child has an exclusive right to nine weeks of parental leave and this right cannot be transferred to the other parent. Both parents (or other family member) can simultaneously use the parental leave, but its total length is limited to 41 or 43 weeks. Parental leave can be taken at one time or in no more than five parts, no later than the end of the calendar year in which the child turns six years old.

The parental leave is paid by social security. The maternity allowance for the period of parental leave amounts to 70% of remuneration or 81,5% of remuneration, if a request for payment of maternity allowance for a period corresponding to the duration of maternity and parental leave in full is made no later than 21 days after the birth. Note, however, that the maternity allowance for the non-transferable nine weeks of parental leave accruing to the other parent of the child amounts to 70% of the remuneration.

Parental leave taken by the mother or the father of a child can be shared at the request of the entitled employee, with their working time reduced by up to 50%. In such a case, the length of parental leave is extended pro rata (up to a maximum of 82 or 86 weeks).

Up-bringing leave

An employee is entitled to this leave after 6 months of total employment. The duration of upbringing leave is up to 36 months (unpaid) until the child's 6th birthday (or 18th birthday if the child is disabled). The up-bringing leave may be taken in five parts and may be used

simultaneously by both parents within a 36 month period. Each parent is exclusively entitled to one month of up-bringing leave.

Instead of taking up-bringing leave, employees can request reduced working time, but not less than 50% of their working time.

Adoption Leave

20-37 weeks' leave until the child's 7th birthday (or 10th birthday if there has been a decision to postpone the child's schooling) or 14th birthday on the same basis as maternity leave. The adoption leave may not be shorter than 9 weeks.

38/41/43 weeks' parental leave under rules corresponding to parental leave.

Is paternity leave available to employees? If yes, for how long? How many days/months have to be paid by employers? Is it possible to have unpaid paternity leave?

Yes, please see the description of parenthood-related leave above.

Are employers liable for absence due to work-place injuries?

If an incident is deemed to be an accident at work, the employee will receive compensation from Social Security or private insurance. Under certain circumstances, the employee may pursue complementary claims against the employer for accidents at work based on civil law. This is possible when the employer is responsible for the accident i.e. the employer has not fulfilled their obligations to ensure safe and healthy working conditions (which should be stated in the protocol by the post-accident team).

Are employees entitled to retirement benefits from the employer? If yes, what benefits?

Pension scheme

Every employee is subject to the mandatory state pension security system. Thus, every employee must be registered by the employer with social security within 7 days as of commencement of employment; calculation and deduction of the contributions is done by the employer.

Extra-statutory pension schemes are not popular in Poland.

Employee Capital Plans

From 1 January 2019 a reform of the Polish pension system was implemented and Employee Capital Plans were introduced, being a new form of savings for pension benefits established by all employers.

The provisions on Employee Capital Plans apply to all employing entities from 1 January 2021, while previously the employers were gradually covered by such provisions based on headcount.

The employer must enter into agreements concerning maintenance of an Employee Capital Plan with a financial institution chosen with the employees' participation. After the Employee Capital Plan is created, the employer remits contributions to the Plan.

The contributions to the Employee Capital Plans are financed by both the employer and the employee, with additional preferential financing provided by the State. Basic contributions are 1,5% of the salary (paid by employer) and 2% of the salary (paid by employee) and may be increased to not more than 4% (paid by employee and employer) which gives a maximum of 8% in total.

An employee who earns remuneration not exceeding 1.2 times the minimum wage has the option to reduce their basic contribution to 0,5 % of remuneration.

The employees may decide to opt out from the Employee Capital Plan, but such employees will be automatically re-enrolled to the plan on a periodic basis.

Are employers obliged to introduce reporting channels and legal safeguards for whistleblowers?

Not yet. Poland is very much behind schedule with the implementation of the whistleblower protection Directive. The new legislation is expected to be implemented very soon.

3 Safe and supportive work environment

Broadly what measures have to be in place to ensure employers uphold health and safety? (such as fire or earthquake drills)

The Labour Code is the primary piece of legislation covering occupational health and safety matters in Poland. It sets out health and safety responsibilities and duties imposed on employers and employing entities towards: employees, civil law contractors, the self-employed, students/pupils and persons not involved in the work process but who have access to the place where the work is carried out.

The Labour Code in Article 207 Section 2 sets the general duties in relation to H&S matters that an employer has towards its employees, stating that the employer is in principle obliged to: (1) organize work in such a way as to ensure safe and hygienic working conditions; (2) ensure that health and safety regulations and rules are observed at the workplace, issue orders for the rectification of deficiencies in this respect and control the execution of these orders; (3) respond to health and safety needs and adapt the measures taken to improve the existing level of protection for the health and safety of employees, taking into account changing working conditions; (4) ensure the development of a coherent policy on the prevention of accidents at work and occupational diseases, taking into account technical issues, work organization, working conditions, social relations and the influence of working environment factors; (5) take into account the health protection of juveniles employees, pregnant or breastfeeding employees, disabled employees in the framework of preventive measures taken; (6) ensure the enforcement of orders, notices, decisions and decrees issued by the authorities supervising working conditions; (7) ensure the implementation of the recommendations of the social labour inspector.

The abovementioned general H&S obligations of the employer towards its employees are concretized in detail in further provisions of the Labour Code (Articles 207-237(15)).

The measures to be taken by the employer are, among others, as follows: (i) refer employees for medical check-ups, (ii) provide employees with OHS training; (iii) carry out an occupational risks assessment in the workplace and in individual positions and communicate these risks; (iv) provide appropriate hygiene and sanitary facilities and provide necessary personal hygiene products; and (v) monitor compliance with health and safety principles among employees.

Is there a requirement for an employer to issue any form of non-discrimination policies? (such as gender equality policies, equal employment opportunities, diversity, and inclusion policies, etc.)

Although not explicitly required by law, it is recommended to have an anti-bullying and anti-discrimination policy either as a part of the workplace regulations or as a separate document, due

to the fact that under Polish law employers are obliged to counteract bullying and discrimination in the workplace.

There are several steps that are not required by law, yet recommended to ensure equal treatment in employment within the establishment:

- adopt a code of good practice relating to equal treatment of employees;
- adopt a separate procedure on how to notify cases of alleged unequal treatment in employment relations. If a whistleblowing scheme is organized to lodge such claims, it is necessary to inform employees earlier that their personal data can be collected for this purpose;
- organize regular training for employees, in particular for managers, so they understand what the equal treatment obligation means in practice. It is recommended to gather the confirmations of participation in these trainings.

The Polish Labour Law does not require the employer to introduce any grievance or appeal procedure. If the employer decides to do so, it must obey those rules in every situation.

Is there a requirement to provide employees with training designed to combat discrimination and harassment?

Please see above.

Is there a requirement to have a data protection policy?

A data protection policy is an optional internal policy. Although there is no legal requirement to have a data protection policy, such a policy is becoming standard among employers.

Please note that in the case of remote work, the employer is obliged to introduce a '*Procedure for the protection of personal data and information security*' document.

Is it mandatory for employers to have a Child Protection Policy (CPP)? Are employees obliged to provide training on CPP to its employees?

Employers have a responsibility to keep all the children they work with safe. This means making sure they have a safe place to work, and that their job is suitable for their age and ability.

The Labour Code and other provisions of the Labour Laws do not stipulate an obligation for employers to either have a Child Protection Policy or provide training on CPP to their employees. However, it is possible that such obligations may arise from specific provisions.

4 Tax

Which taxes are mandatory for employers to pay and deduct on behalf of their employees?

The employer is responsible for the correct accounting and payment of advance tax on employees' salaries to the tax office for personal income tax.

Are all employee taxes deducted from the salary that the employer pays or is there a requirement for employees to pay certain taxes directly?

All taxes are deducted from the salary paid by the employer under their employment contract.

5 Remote work

Are employers required to have a registered legal entity in the jurisdiction in order to employ employees in the jurisdiction?

No. Employees may work in Poland while directly employed by a foreign entity. Nevertheless, most businesses in Poland will be set up as a sole trader, branch office, limited company or partnership and will normally need to register as an employer with the tax office and social security authority (ZUS) when they start employing staff.

Are employers required to provide any form of physical working space for employees working in your country?

Employees may work from the company location and/or from a remote location.

Please provide general instructions for employers on what to check if the employer has remote employees, including concerning employee tax liabilities.

As of 7 April 2023, remote working has been very precisely regulated in the Polish Labour Code. At the same time, remote working remains the only form of 'working from home', completely replacing the provisions on telework.

Remote work has been defined as work carried out fully or partially at a place indicated by the employee and agreed with the employer in each case, including at the employee's place of residence, in particular through the use of means of direct communication at a distance.

The employer may agree with the employee to carry out remote working either at the commencement of the employment relationship or during the course of employment.

The rules for remote working are set out in a separate document, i.e. either in an Agreement concluded with the trade unions, in Regulations adopted by the employer (after consultation with employees' representatives) or in an Agreement concluded with the individual employee.

The employer is obliged to provide an employee who performs remote work with: (a) materials and work tools, including technical devices, necessary for performing remote work; (b) installation, service, maintenance of work tools, including technical devices, necessary for performing remote work.

The employer is required to reimburse the employee with the costs related to the performance of remote work i.e.:

- to reimburse the costs, that is: (a) the necessary costs related to the installation, service, operation, and maintenance of work tools, including technical devices, necessary for the performance of remote work; (b) the costs of electricity and telecommunications services necessary for the performance of remote work; (c) other costs directly related to the performance of remote work;
- to pay an equivalent for the use by employees of work tools, including technical devices, necessary for the performance of remote work, that are not provided by the employer.

The obligation to cover costs or pay an equivalent may be replaced by an obligation to pay a lump sum, the amount of which corresponds to the anticipated costs incurred by the employee in connection with the performance of remote work. When calculating a lump sum for the costs related to the performance of remote work, the employer should take into account the market prices of the services to which the reimbursement applies (electricity, Internet). For that reason it

is recommended for the employer to conduct market price analyses and to have documentation to confirm the output used in the lump sum calculation. The reimbursement of remote work costs does not constitute income for the employee, if market conditions are considered in the calculation. In other words: if, for example, the company determines the average cost of purchasing Internet at the required speed, it should be in possession of documents confirming offers from providers of such Internet in the locations in question and the calculation for calculating the average price. The same applies to electricity costs and energy consumption standards for a given type of equipment (e.g. an excerpt from a given computer manufacturer's documentation on the energy consumption standards for a given type of computer). Hence, an assessment based on "common sense" or the practices of other entities on the market will not be sufficient.

There is no accepted minimum mandatory amount of lump sum to reimburse remote work costs. Legal provisions contain only the factors/indicators that should be taken into account for the determination of the lump sum.

The employer is not obliged to reimburse employees who perform remote work on an occasional basis i.e. up to 24 days per calendar year.

An employer who allows its employees to perform full or partial remote work is obliged to introduce additional documentation i.e.:

- Occupational Risk Assessment for Remote Worker;
- OHS Information containing rules on safe and hygienic remote working;
- Procedure for the protection of personal data and information security.

6 What to do when things go wrong

Dispute resolution

Do employees (including volunteers) need to go through any form of dispute resolution before bringing a claim to a court or tribunal?

Mediation is voluntary. Mediation is conducted on the basis of a mediation agreement or a court order directing the parties to mediate. The agreement may also be concluded by a party's consent to mediation when the other party has made a request to do so.

Resignation

What grounds do employees have for resignation?

The employee may resign from work at any time without giving any reason (termination notice). The employment relationship will terminate at the end of the notice period.

The employee may resign from work where the employer has committed a serious breach of fundamental duties towards the employee (termination without notice).

The employee may propose to the employer that they conclude a mutual agreement on termination.

Termination

What grounds do employers have for the termination of employment contracts?

Under the Polish Labour Code an employment contract may be terminated by:

- the agreement of the parties;
- notice given by either party;
- termination without notice;
- expiry of a fixed-term

Further, an employment relationship expires on the death of the employee or following an employee's three month absence from work due to temporary arrest, unless the employer had terminated the employment contract without notice.

Termination of employment by either party must be given in writing. If the employer terminates an employment contract of definite or indefinite period with notice, or any contract without notice, a reason for termination must be given. Every termination by the employer of an employment contract must be in Polish and must include information about the right of appeal to the labour court. If the employee is protected by the trade union at the place of work, the intent to terminate the employment contract of definite or indefinite period must be consulted on with the trade union.

Upon the termination or the expiry of an employment relationship, the employer is obliged to immediately issue the employee with a work certificate.

The issuing of the work certificate may not be conditional on the previous settlement of accounts between the employee and the employer.

The Labour Code does not list any reasons recognized as justified grounds for termination of employment with notice. The labour courts have jurisdiction to hear employees' complaints of unjustified termination and decide whether termination was justified based on the circumstances of the case. In general, a dismissal is fair when the reason for dismissal is real and justified by the circumstances.

Termination upon notice:

The length of statutory notice period differs depending on the type of employment contract.

Employment contract for a definite and an indefinite period:

- 2 weeks if the employee has been employed for less than 6 months;
- 1 month if the employee has been employed for at least 6 months;
- 3 months if the employee has been employed for at least 3 years (in some circumstances it is possible to shorten it to a maximum of 1 month).

Employment contract for a probationary period:

- 3 working days if the probationary period does not exceed 2 weeks;
- 1 week if the probationary period is longer than 2 weeks;
- 2 weeks if the probationary period is 3 months.

Termination without notice:

- Termination occurs on the same day that the letter of termination is delivered to the employee.

Termination without notice due to a fault of the employee:

An employer may terminate the employment contract without notice due to a fault of the employee who has:

- seriously violated the basic duties of an employee;
- committed an offence while the employment contract is valid, the offence rendering their further employment of the position impossible, if the offence is obvious or has been established by a valid court verdict;
- due to their own fault, lost the license necessary for the performance of duties connected with their post.

Termination without notice due to an employee's fault must occur before the expiry of one month after the employer (i.e. the management who decides on employment) learned about the circumstances justifying termination. The employer must also strictly comply with the Labour Code rules.

Termination without notice without employee's fault:

An employer may also terminate an employment contract without notice in the following situations:

- if the employee is unfit to work due to illness:
- for longer than three months, if the employee has been employed by the employer for less than six months;
- for longer than the period of receiving welfare benefits, if the employee has been employed by the employer for at least six months or if they have become unfit for work because of an accident at work or because of an occupational disease (the period of receiving welfare benefits equals 182 calendar days - or 270 days in the case of tuberculosis - and 90 days of receiving rehabilitation allowance);
- in the case of a justified absence of the employee from work due to reasons other than those enumerated in point 1 for a period longer than one month.

The employment contract may not be terminated without notice after the employee reports to work because the reason of their absence has ceased.

Termination by mutual agreement:

The parties may agree on the date of termination of their choice (on the same day or in 6 months' time etc.). This applies to any type of employment contract.

Special protection against termination:

Certain employees enjoy special protection against dismissal. In particular, the following employees are protected against their employment being terminated with notice:

- pregnant employees, employees who have applied for parenthood-related leave(s); employees on parenthood-related leave(s);
- employees who will reach retirement age in less than 4 years if the employment period gives them the right to a retirement pension on reaching that age;

- employees during justified absence from work (unless the absence exceeds the period after which the employer may terminate the employee without notice without a fault of the employee);
- work councils members;
- trade unionists indicated by trade union authorities

The effect of such protection is that it is impossible for the employer to terminate these employees unilaterally.

Court appeal:

- The employee has a right of appeal to the labour court (in the case of notice and termination without notice) within 21 days from receipt of the termination document.

Redundancy:

In the case of redundancy, employers who employ at least 20 employees, must apply the provisions of the Act on Particular Rules of Terminating Employment Relationships with Employees for Reasons Not Attributable to Employees, dated 13 March 2003 (hereinafter referred to as the "Act").

In the case of group redundancies a special procedure described in the Act must apply. In such an event, the Local Labour Office must be notified.

The redundant employee (either covered by group redundancies or dismissed individually for reasons not attributable to them) is entitled to a severance payment specified in the Act.

How do employers have to document the termination of an employment contract?

By handing over the termination document and by issuing the work certificate.

What is the responsibility of employers for damages incurred by an employee's actions within his/her work?

As a general rule, the employer is liable for damage caused by the employee's actions in the course of work (e.g. towards a third party). The employer may then make a recourse claim against the employee, for an amount that varies depending on whether the employee caused the damage intentionally or unintentionally.

b. Independent contractors/consultants*

Section Contents

Definition of an independent contractor/consultant

In Poland there are two main types of persons performing work/services under civil law contracts. The first category is civil law contractors. The second category is independent contractors.

A civil law contractor is a natural person who performs work under a civil law contract (contract for service). A civil law contractor is not registered as an independent contractor (entrepreneur) and does not perform subordinate work like an employee.

An independent contractor is an individual who performs work under a civil law contract (contract for service). An independent contractor is registered in the register of entrepreneurs and is a person who does not employ other persons.

**The term consultant will be used to also refer to independent contractors, or any other term that would mean a person that provides goods or services under a written contract or a verbal agreement but does not work to meet the definition of employee.*

1 Contracts

What types of independent contractor/consultant agreements are available? Are there any specific agreements available to NGOs?

There is no legal requirement for any particular form of agreements when engaging independent contractors /consultants, and no legally required agreement format for NGOs. The civil law general regime for contracts between the parties applies.

The most common civil law contract to engage civil contractors is the mandate contract / service contract.

What are the main elements of consultant agreements?

Consultancy agreements (civil law contracts) typically include provisions around the terms of the engagement, duties and obligations, fees, expenses, confirmation information, intellectual property, insurance and liability, termination, status, notices, third party rights, governing law and jurisdiction.

Is it possible to have probation periods for independent contractors/consultants? If yes, for how long?

It is possible to have probation periods for independent contractors/consultants. There is no legal time limit in this respect – the freedom of contract applies.

Is it possible to have a fixed term consultation/independent contractor agreement? Are there any restrictions around fixed term consultant/independent contractor agreements?

It is possible to have a fixed term consultation/independent contractor agreement. There are no legal restrictions around fixed term consultant/independent contractor agreements - freedom of contract applies.

Do independent contractor/consultant agreements have to be in writing? Are there any signatory requirements? For example, could they be signed in-person or electronically, etc.)?

The Civil Code does not impose any requirements on the parties as to the form of the contract. Such a contract may therefore be concluded in one of the forms set out in the general provisions of the Civil Code i.e. in written form (a paper document signed in wet-ink), electronic form (qualified electronic signature), documentary form (e.g. through an exchange of emails) or even orally.

Do all types of independent contractors/consultants have to be under contract in order to be able to work?

The contract will set out the conditions under which the work will be carried out, but there is no legal obligation for it to be in a specific form and it can be an oral or written contract.

Can you provide a simple template of the agreements mentioned above?

N/A.

Is there an obligation to run a criminal record check to the extent that any independent contractor will be working with children or vulnerable people?

Before allowing a person to engage in any activity related to the upbringing, education, recreation, treatment or care of minors, the organizers in such activities are obliged to obtain information as to whether the data of that person is included on the Register of Sexual Offenders.

The organizer of work is entitled to request a certificate from the criminal record system only if the law so provides (e.g. in the case of schoolteachers, camp leaders, or nursery workers).

2 Conditions of work for consultants

Are there any minimum age requirements for an individual to work under a consultant/independent contractor agreement?

The conclusion of a civil law contract is allowed with a juvenile from the age of 13. However, the consent of a legal representative or guardian is needed, or, if the contract has already been signed, the confirmation of one of these persons.

Does a consultant/independent contractor need to obtain a license or any other permission in order to work?

If a license is required for a specific type of work.

Payment

Are there any minimum pay requirements for consultants/independent contractors?

Yes, civil law contractors and solo self-employed persons who do not employ other persons are eligible for a minimum hourly rate provided by law on the same basis as employees.

Are there any exceptions in minimum wages for young persons or people with disabilities?

There are no exceptions in case of persons with disabilities and young persons.

Is there any requirement to provide statutory/paid leave to consultants for statutory holidays?

There is no such obligation.

Is there any requirement to pay annual leave to consultant/independent contractors? If so, how is this compensated, if at all?

There is no legal requirement to pay annual leave to consultants/independent contractors, unless provided for under the terms of the contract.

Is there an obligation to provide consultant/independent contractors with overtime? How is this compensated if required?

There is no legal right to overtime, unless provided for under the terms of the contract.

Are consultants entitled to an end-of-year payment?

No, unless otherwise agreed by the parties in the contract.

Are consultants entitled to a final payment when the contract is terminated?

No, unless otherwise agreed by the parties in the contract.

Working hours

Are consultants entitled to any type of leave, whether paid or unpaid?

No, unless otherwise agreed by the parties in the contract.

Social security

Does the end user engager need to make any social security contributions on behalf of a consultant/independent contractor? Are independent contractors entitled to health insurance from the end user engager?

Civil law contractors are subject to compulsory social insurance (i.e. pension, incapacity, accident) and health insurance. The obligations to have these insurances arises from the date specified in the contract as the date of commencement of its performance, and lasts until the date of termination or expiry of the contract. In addition, a person performing a contract for service may join sickness insurance on a voluntary basis. In general, for persons performing a contract for service the user/engager pays their part of social security contributions and transfers the employee's social security and health insurance contributions to the Social Insurance Institution (ZUS).

Self-employed independent contractors are covered by compulsory pension, incapacity, accident and health insurance, and voluntarily (at their request) by sickness insurance. They pay contributions to the Social Insurance Institution (ZUS) themselves.

Are independent contractors/consultants entitled to unemployment insurance/ benefits after termination of their independent contractor/consultancy agreement from the end user engager?

Yes, provided that certain conditions are met.

If the person meets the criteria for the benefit and is registered with the district Labour Office, they are entitled to an unemployment cash benefit.

Unemployment benefits are available to persons who have provided work/services under a civil law contract for a minimum of 365 days, in the 18 months preceding their registration at the Labour Office as an unemployed person. Other conditions are that the person has not been offered a suitable job, apprenticeship, adult vocational training, training, intervention work or public works and the basis for the calculation of contributions for social insurance and the Labour Fund must be the amount of at least the minimum remuneration for work.

Unemployment benefits are financed by the Labour Fund and paid by the Labour Office.

Are independent contractors/consultants entitled to sick leave from the end user engager? If yes, for how long? How many days have to be paid?

There is no legal right to sick leave from the end user/engager, unless provided for under the terms of the contract.

Are independent contractors/consultants entitled to maternity leave from the end user engager? If yes, for how long? How many days/months have to be paid?

There is no legal right to maternity leave from the end user/engager, unless provided for under the terms of the contract.

Are independent contractors/consultants entitled to paternity leave from the end user engager? If yes, for how long? How many days/months should be paid?

There is no legal right to paternity leave from the end user/engager, unless provided for under the terms of the contract.

Are employers obliged to cover work-place injuries for independent contractors/consultants?

Independent contractors/consultants are covered by obligatory social insurance for accidents at work.

Accidents at work benefit is payable from the first day of incapacity for work to persons subject to accident insurance, irrespective of being subject to sickness insurance.

There is no legal right to sick leave/pay from the end user/engager, unless provided for under the terms of the contract.

Are independent contractors/consultants entitled to retirement benefits from the end user? If yes, what benefits?

There is no legal right to retirement benefits from the end user/engager, unless provided for under the terms of the contract.

3 Safe and supportive work environment

Are there any differences in terms of the regime that applies to employees?

No, the user engager has exactly the same H&S obligations towards persons engaged for work/services on a basis other than employment relationship.

However, there is no consensus as to whether a civil law contractor should be referred for a medical check-up and whether they must undergo health and safety training (as there is no clear reference in the legal provisions).

In the law:

- it is stated that a civil law contractor does not need to be provided with initial H&S training. However, they should certainly be made aware of the hazards on site and other important information that is necessary for the safe execution of the work/service. There is nothing preventing the user/engager from providing full initial H&S training for civil law contractors.
- as regards to medical examinations, the preventive health care of the occupational health service shall include at their request: persons working on a basis other than an employment relationship and self-employed persons. Nonetheless, looking at the overall legal provision in force, it is considered that persons working on a basis other than an employment contract should be referred for medical check-ups, although there is a lack of clarity regarding the payment of the costs of these check-ups. It is advisable to refer to third-party contractors for medical check-ups, especially if there are particular hazards connected with the execution of the contract e.g. work at height, work requiring particular psychomotor skills, or work involving excessive physical effort.

4 Remote work

Are end user engagers required to have a registered legal entity in the jurisdiction in order to hire independent contractors/consultants there?

No.

5 What to do when things go wrong

Resignation

Do consultants/independent contractors need a reason to terminate the contract or can they terminate it for any reason in accordance with the terms of the contract?

There are no legally specified grounds for resignation, although the reasons for termination (and the impact of that reason on other terms such as notice and severance payments or benefits) will often be set out in the contract.

Termination of agreement

What grounds do end user engagers have for the termination of consultant agreements?

Termination grounds will depend mostly on the terms of the contract.

According to the law, the user engager may terminate the contract at any time. If the termination is made by the user engager, the user engager is obliged to reimburse the civil law contractor for

the expenses made up to the date of termination, as well as such part of the remuneration as corresponds to the contractor's performance. If, on the other hand, the contract is terminated by the contractor, then, unless otherwise agreed, the contractor is not entitled to a claim for reimbursement of expenses and the corresponding part of the remuneration. If the termination is without a valid reason, user engager shall also compensate for the damage. The right to terminate a civil law contract cannot be waived in advance for important reasons.

What is the responsibility of the end user engagers for damages incurred by a consultant's actions within his/her work?

End user engagers are responsible for the acts of independent contractors/consultants in the execution of the work for which they are engaged under Article 430 and/or Article 474 of the Civil Code.

c. Volunteers

Section Contents

Definition of a volunteer

A volunteer is defined as an individual who performs tasks voluntarily and without remuneration.

1 Contracts

Are organizations required to sign any form of agreement with volunteers?

Occasional or short-term volunteer assistance does not require a written Cooperation Agreement. A verbal agreement is sufficient. However, at the request of the volunteer, the organization is obliged to confirm the content of the agreement in writing and to provide a written certificate of the volunteer's performance of the tasks, including the scope of the tasks performed.

If a volunteer would like to provide similar assistance to the organization systematically and for a longer period of time (more than 30 days), the Agreement with the volunteer after the 30th day of the cooperation must be in writing.

The agreement, regardless of whether it is written or oral, must regulate the following issues: the time and subject of the agreement and the manner of its termination.

If the organization enters into an agreement with a minor, parental (guardian) consent must also be obtained for such a person to volunteer for the organization.

2 Conditions of employment

Is there a minimum age requirement for volunteers?

The rules of volunteering are regulated by the Act on Public Benefit Activity and Volunteerism. The Act does not introduce any age restrictions for volunteering. Thus, both seniors and minors can become volunteers.

However, in the case of children and adolescents, the consent of legal guardians will be required.

What type of volunteering work may a child undertake? Are there any restrictions around this?

There are no concrete restrictions in this respect.

There are some activities for which special qualifications, education or age will be required. This usually results from separate regulations. If these apply, then the organization must look for volunteers who meet these special requirements.

Payments and reimbursement

Are organizations allowed to pay stipends to volunteers?

According to the legal definition, a volunteer is a person who is not eligible for remuneration for work. However, it is accepted that the volunteer may receive some form of monetary compensation. In that case, such income not provided for by law does not benefit from personal income tax exemption.

Are organizations allowed to reimburse volunteers? If yes, for what expenses (such as transportation, food, etc.).

Organizations are obliged to cover, in accordance with the rules concerning employees, the costs of business trips and *per diems* of volunteers. Importantly, the volunteer may (but only in writing) waive *per diems* and travel expenses, i.e. relieve the organization of these costs.

Organizations may also cover, under the rules concerning employees, other necessary costs incurred by the volunteer related to the provision of services to the organization. The Agreement with the volunteer may specify what other costs will be covered by the organization. The most common costs of this kind are the costs of commuting and costs of telephone calls made by the volunteer from their phone in relation to the tasks performed.

Organizations may cover the costs of training for volunteers in the scope of their tasks as defined in the Agreement.

Working hours

Are there any obligations around how many hours volunteers can work?

There are no such obligations.

Are volunteers entitled to any type of leave?

No.

Social security

Are organizations obliged to pay any social security contributions on behalf of their volunteers?

No, both the organization and the volunteer do not pay social security contributions (pension, incapacity, accident, sickness) for voluntary activities.

Are organizations obliged to provide health insurance to volunteers?

The insurance is voluntary. Organizations may report the volunteer to the Social Insurance Institution (ZUS) if the volunteer is not covered by health insurance under another title. The basis for the contribution is an amount corresponding to the minimum wage. The beneficiary may register the volunteer for insurance, but - as a rule - there is no obligation to do so. The exception is if the parties have provided for this in the Agreement.

Are organizations liable for absences of volunteers due to work-place injuries?

The organization is obliged to provide the volunteer with personal accident insurance.

If the period of cooperation is shorter than 30 calendar days, this insurance should be purchased from any insurance company. If the period of cooperation is longer than 30 days, the volunteer is covered by insurance by the Polish state on the basis of the so-called small accident law (the Act on provision for accidents or occupational diseases resulting from special circumstances). In such a situation, it is necessary to sign a Cooperation Agreement with the volunteer, which is a promise of an insurance coverage policy.

When a volunteer is deployed in the territory of another country where there is an armed conflict, a natural disaster or a natural catastrophe, the organization is obliged to provide the volunteer with personal accident insurance and is also obliged to insure the costs of the volunteer's medical treatment during their stay abroad, if these costs are not otherwise covered.

If a volunteer is sent to work abroad but will not be working in the dangerous conditions mentioned above, the organization may purchase personal accident insurance for the volunteer and may insure the costs of the volunteer's medical treatment during their stay abroad, if these costs are not otherwise covered.

3 Safe and supportive work environment

Are there any differences in terms of the regime that applies to employees?

The organization's obligation is to inform the volunteer of the health and safety risks associated with the tasks performed and the rules for protection against those risks. This is not equivalent to the obligation to refer the volunteer to health and safety training, as in employee's case. The duty to inform should be carried out before the volunteer commences their tasks and should be adapted to the nature of the tasks that the volunteer will perform. The information can be in any form - a conversation, training or giving information in writing.

The organization is obliged to provide the volunteer, on the basis of the rules applicable to employees, with safe and hygienic conditions for the performance of their tasks, including - depending on the type of tasks and the risks involved in their performance - appropriate personal protective equipment.

The organization is not obliged to send volunteers for medical check-ups or to provide OHS training. However, for certain types of tasks this may be necessary.

4 Tax

Are organizations obliged to pay taxes if they pay their volunteers stipends? If yes, what types of taxes are mandatory to pay?

Yes, personal income tax.

5 What to do when things go wrong

What grounds do organizations have for the termination of volunteer agreements/arrangements?

There are no legally specified grounds for the termination of the volunteer Agreement/arrangements.

What is the responsibility of organizations for damages incurred by a volunteer's actions within his/her work?

The organization may be liable for damage caused to a third party by the volunteer under Articles 429 and 430 of the Civil Code.

Please note that it is not compulsory to have third-party insurance for working with volunteers. However, it is worth having such insurance, as it protects the organization against possible third party claims as a result of the volunteers' actions.

d. Non-citizen employees and consultants, including refugees and others forcibly displaced

Section Contents

1 Status and the right to work

Are employers obliged to secure legal status for their employees or consultants if they are non-citizens? (such as refugee status, humanitarian visas, visas for trafficking survivors, other recognized protection statuses, etc.)

Yes. The employer is obliged to apply for a work authorization document. However, in terms of residence documents (visa, residence permit), the employer is not a party to the process although they perform a supplementary role, i.e. by delivering critical documents allowing for the issue of the visa or residence permit.

In general, to have the right to work, a non-citizen must have a valid visa (with a code not excluding the right to work) and a work authorization document or so-called joint residence permit allowing them to reside and work.

Hiring a non-citizen without a residence document authorizing them to stay in Poland is a crime. Employing a non-citizen with a valid residence document, but without a right to work, is an offence.

Non-citizens who are citizens of any EU country generally have a right to reside in Poland and are authorized to work, without any type of work authorization documents.

Are employers obliged to secure work permits for their employees or consultants?

Yes. Work permits and fast-track work authorization documents are statement of work entrustment (available only where hiring foreigners with legally defined nationalities) and notification (available for Ukrainian citizens only).

In the procedure for granting a visa or temporary residence and work permit to a foreigner, the employer is not a party, but it is necessary to support the foreigner with certain documents signed by the employer for the non-citizen so they could be granted the visa or residence permit.

Is it always necessary to obtain a work permit?

No. Foreigners are released from the work authorization document duty if they meet one of several criteria specified in the laws on the legality of their employment and residence. The need for each non-citizen to have a work authorization document must be verified individually.

Can asylum-seekers and other persons forcibly displaced access the right to work if they do not have refugee status or other recognized protection statuses?

Asylum seekers who apply for an international protection permit can be authorized to perform work if a case concerning the granting of international protection has not been settled within 6 months from the date of submitting the application through no fault of the applicant. The foreigner must then apply to the relevant authority for a certificate which, together with the foreigner's temporary identity certificate, entitles them to work on the territory of the Republic of Poland.

Besides that, foreigners who have been granted:

- refugee status;
- subsidiary protection;
- permit to stay for humanitarian reasons;
- permit for tolerated stay in the Republic of Poland;
- temporary protection in the Republic of Poland;
- temporary residence permits due to being victim of human trafficking; and
- humanitarian visa (this type of visa is issued foremost to Belarusian citizens),

are released from work authorization document duty.

2 Contracts

Are employment contracts or consultant agreements for non-citizens different to those for citizens?

No, however, an employment contract must be concluded in the language understood by the non-citizen.

3 Conditions of employment

Does national law regulate the quotas for the number of non-citizens within one organization?

No.

Are employers obliged to report about employed non-citizens?

No, however employers are obliged to notify authorities when circumstances (expressed in legal acts) related to the non-citizen’s work performance arise. The scope of these circumstances and details of notification varies depending on the work authorization solution which is used to hire the non-citizen.

Are there any other differences in conditions of employment for non-citizens and citizens?

No.

Are there any specific employment terms that apply to citizens but not apply to non-citizens?

Hiring non-citizens must be in compliance with the legality of work and residence regulations, i.e. in the case of non-citizens requiring a work and authorization document, generally the terms of employment (job position, salary, working time) must be the same as indicated in the work authorization document. Some of these terms can be changed without a change of the work authorization document.

4 Safe and supportive work environment

Are there any differences in a safe and supportive work environment approach for non-citizens? If yes, please elaborate here.

No.

Does the employer have additional obligations for non-citizens?

Yes. There is a general obligation to employ non-citizens in compliance with regulations defining the legality of the foreigner's residence and work. There are other information obligations towards respective authorities regarding circumstances (expressed in legal acts) of a non-citizen's work performance. The scope of these circumstances and details of notification varies depending on the work authorization solution which is used to hire the non-citizen. There is also an obligation to demand and store a copy of a document authorizing the non-citizen to reside legally in Poland. Another duty is information/obligation.

In detail: the information obligation concerns the circumstances related to the performance of work by a foreigner based on a work permit granted to them. An equivalent information obligation exists in the case of employment of a foreigner on the basis of the so-called declaration on the entrustment of work.

The obligation to notify also exists in the case of the employment of a citizen of Ukraine on the basis of the provisions of the special law introduced in connection with the war in Ukraine.

In each case, the scope and details of the notification differ.

5 What to do when things go wrong?

Is the process of termination of an employment contract for non-citizens different than for citizens? If yes, please explain here.

No, however, employers are obliged to notify authorities when the termination of a non-citizen's contract in certain circumstances arises. The scope of these circumstances depends on the work authorization solution which is used to hire the non-citizen.

Is the process of resignation for non-citizens different than for citizens? If yes, please explain here.

No, however, there is a notification duty on the part of the non-citizen if they reside based on the temporary residence issued for the purpose of work. The non-citizen is obliged to notify the authority which issued them the residence permit about the termination of the purpose for the

grant of the permit (in this case the termination of the contract, or resignation) up to 15 working days following the termination.

Are non-citizens entitled to the equal protection of employment laws in the event of employment-related disputes?

No, except court proceedings to claim outstanding remuneration from a foreigner who stayed in Poland illegally (and thus also worked illegally). In such a case, the following legal presumptions are established (which can be rebutted both by the employer and the foreigner): if the work was entrusted on the basis of an employment contract, it is presumed that it was concluded for 3 months; if the work was performed on another legal basis, e.g. a contract of mandate, it is presumed that for the whole period the remuneration amounted to three times the minimum wage.

For more information please visit pilnet.org