

Wrocław, 1<sup>st</sup> February 2016

**NEWSLETTER Nr 3/2016/Legal<sup>1</sup>**

**THE MOST IMPORTANT CHANGES CONNECTED WITH  
AMENDMENT TO THE LABOUR CODE**

Already from February 22<sup>nd</sup>, 2016, some significant changes concerning the regulation of employment relation will come into force. Amendment<sup>2</sup> to the Labour Code (hereinafter referred to as: LC)<sup>3</sup> provides for many changes, but the employers shall pay particular attention especially to the new limits concerning fixed-term employment contracts and to modifications concerning provisions on the termination of such contracts.

**the limits concerning the fixed-term employment contract**

According to the new wording of Art 25<sup>1</sup> of LC the period of employment on the basis of fixed-term employment contract (or total period of fixed-term employment between same parties) cannot exceed 33 months. Within the limit of 33 months, the parties may conclude no more than three fixed-term employment contracts. In case of exceeding those limits, the employee by virtue of the law is considered to be employed on the indefinite employment contract, starting from the day of expiry of above-mentioned period or from the day of conclusion of the fourth fixed-term contract.

What is important, four exceptions are provided, where exceeding above-mentioned limits is admissible. New limits will not be applicable in case of contracts concluded:

1. for the purpose of a replacement for an employee,
2. for the purpose of carrying out odd or seasonal job duties,
3. for the purpose of providing a job for the term of office,
4. and also if the employer indicates objective reasons which are on his side.

However, the legislator requires the employer:

- to indicate in the content of the contract above-mentioned purpose or circumstances by including an information about objective reasons justifying conclusion of such a contract,
- in case of contract mentioned in pt 4. above, to inform, within five working days, the proper district labour inspector about conclusion of such a contract together with pointing out reasons

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<sup>1</sup> Niniejszy Newsletter nie stanowi porady prawnej ani podatkowej.

<sup>2</sup> Act from 25 June 2015, Dz. U. from 2015, item 883.

<sup>3</sup> Act from 26 June 1974, Dz. U. from 2014, item 1502, with amendments.

which are on his side. Failure of this information duty is an offence according to art 281 pt. 1a) of LC and is punishable by the fine from 1,000 to 30,000 PLN.

### **Termination of fixed-term employment contracts**

The latter essential change is introduction of new provisions concerning termination of fixed-term employment contracts. Unlike under the regulations in force until now, there is no need for including in the content of the contract an additional clause providing for possibility of termination of such a contract<sup>4</sup>. After implementation of the amendments of LC, each party may terminate the employment contract (the fixed-term employment contract as well) with a notice. The length of notice period depends on the length of employment at given employer and it amounts:

- 2 weeks, if an employee was employed less than 6 months,
- 1 month, if an employee was employed at least 6 months,
- 3 months, if an employee was employed at least 3 years.

The important fact is, that art. 16 of the act amending LC specifies more precisely, that in relation to fixed-term employment contracts, which have been concluded under the previous rules, while fixing the length of notice periods of fixed-term employment contracts, periods of employment by given employer, coinciding before the day of entering into force of the amended provisions, are not taken into consideration<sup>5</sup>.

### **Exemption from the duty of providing a job in the notice period**

It is worth to note, that in the scope of amendment of LC, new art. 36<sup>2</sup> of LC was added, which entitles the employer to unilaterally exempt the employee from the duty of providing the work in the notice period, but the employee is still entitled to obtain remuneration.

### **Eliminating the contracts concluded for the period of performing specific work**

Changes implemented by the act amending LC will concern other types of contracts as well. So, after February 22<sup>th</sup>, 2016, contracts concluded for the period of performing specific work are no longer admissible (this type of contracts will be removed from LC), but the contracts concluded before the day the amendment of LC becomes effective, will be still in force.

### **Rules on employment on a trial period**

Moreover, rules on employment on a trial period were modified as well. According to the new wording of art 25 §2 of LC such a contract may be, like until now, concluded for a period not exceeding three months, but only for the purpose of examining employee's qualifications and possibility of employing him for the purpose of performing specific work. Furthermore, renewing of the contract between same parties will be possible only if the employee is to be employed for the purpose of performing work of other type or, alternatively, for the purpose of performing work of the same type, if from the date of termination or expiry of previous contract, at least three years went by<sup>6</sup>.

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<sup>4</sup> Until now, the parties may provide for admissibility of earlier termination of fixed-term employment contract with two weeks' notice, if the contract has been concluded for a term exceeding 6 months.

<sup>5</sup> Then, for the purpose of fixing the length of notice period, only period after February 22<sup>th</sup>, 2016, is to be taken into consideration.

<sup>6</sup> Some other restrictions were implemented – such a renewing of the contract on trial period for the purpose of performing work on the same type will be possible only once.

To sum up, it should be noted that the scope of changes introduced to LC from February 22<sup>th</sup>, 2016, is really broad. The entrepreneurs have to reckon with potential necessity of introducing changes in their employment policy and with new obligations imposed by the legislator.

Should you have further questions, we remain at your disposal.