

**accace**

# Labour Law and Employment in Poland - 2019 Guide



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# EMPLOYMENT CHARACTERISTICS

## Employment contract types

There are three types of employment agreements in Poland:

- employment agreement for the trial period
- employment agreement for definite period
- employment agreement for indefinite period

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

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

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

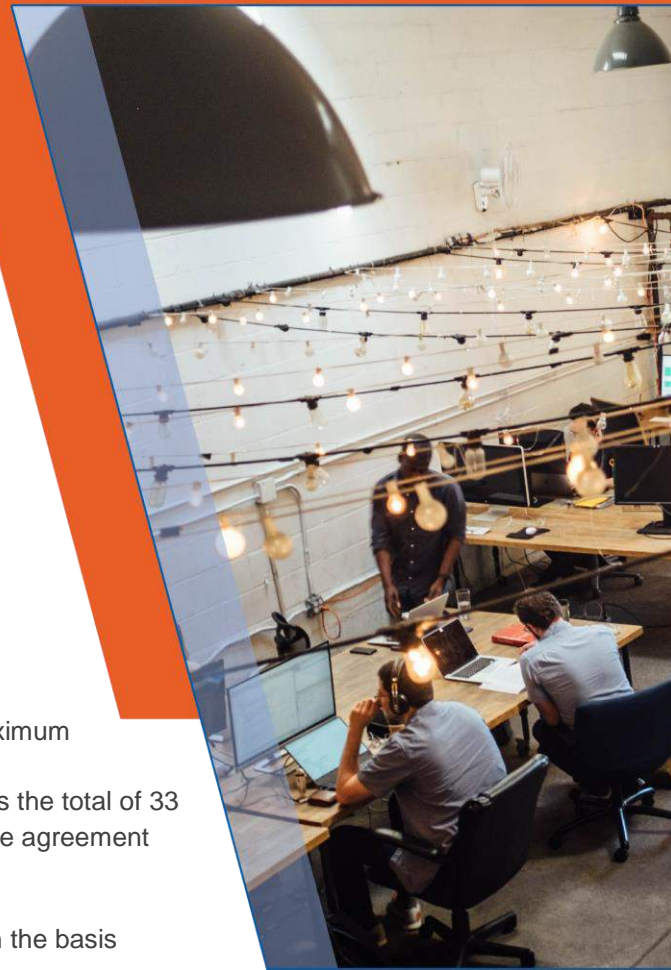
## Non-EU residents

Foreigners to perform work in Poland have to obtain a work permit. Such document is issued on a request of employer by competent local authority (in Polish: wojewoda). The procedure lasts approximately 1 month. Issued work permit can be a basis to obtain working visa.

Different rules apply to citizens of Republic of Armenia, Republic of Belarus, Republic of Georgia, Republic of Moldova, Russian Federation and Ukraine. Citizens of these countries can perform work in Poland for not longer than 6 months in a period of 12 consecutive months without obtaining a work permit. In such case the employer only has to submit to the labour office a declaration of intention to employ a foreigner. Furthermore, the foreigner has to possess a document certifying the title of residence in Poland.

## EU residents

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



## EMPLOYMENT CONTRACT MINIMUMS

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

- the type of work
- the place where the work is performed
- the remuneration corresponding to the type of work, with a specification of the remuneration components,
- the working time
- the starting date of employment

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

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

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

The remuneration in Poland cannot be lower than minimum wage, which is determined by the Council of Ministers each year. In 2019 the minimum wage amounts to PLN 2,250 gross.



# TERMINATION OF THE EMPLOYMENT

## Alternatives

There are 3 methods of terminating employment agreement in Poland:

- termination by mutual consent
- termination with notice
- termination without notice

## Termination without notice

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

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

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

- if he received a medical certificate declaring a harmful effect of the work performed on the health of the employee, and the employer, within the period determined in the medical certificate, fails to transfer the employee to another position appropriate for his health condition and corresponding to his professional qualifications



- in the event of severe violation of employer's basic duties, in such case the employee is entitled to compensation in the amount of remuneration for the notice period.

## Notice period

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

- 2 weeks if the employee was employed for less than 6 months
- 1 month if the employee was employed for at least 6 months
- 3 months if the employee was employed for at least 3 years

In case of agreement for indefinite period, the employer's notice of termination should state the reason justifying the termination. The law in Poland does not provide the list of possible reasons, but according to Polish judicature, the reason should be real, concrete and understandable for employee.

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

- 3 business days if the trial period does not exceed 2 weeks
- 1 week if the trial period is longer than 2 weeks
- 2 weeks if the trial period is 3 months



## CONTRIBUTIONS AND INCOME TAX

The employer is obliged to pay monthly contributions to social and health insurance and advances on the income tax. The tax advance should be paid until 20<sup>th</sup> day of the next calendar month. The contribution to social insurance should be paid until 15<sup>th</sup> day of the next calendar month.

The amounts of personal income tax and contributions owed in Poland are presented in the tables below.

Basis for tax calculation	Tax amounts to:
Up to PLN 85,528	18 % - amount decreasing the tax
Above PLN 85,528	PLN 15,395.04 + 32% of surplus over PLN 85,528.00



The tax-reducing amount mentioned in the table amounts to:

**PLN 1,440** - for a taxable base not exceeding PLN 8,000;

**PLN 1,440** reduced by an amount calculated using the following formula:

$PLN 883.98 \times (\text{taxable base} - PLN 8,000) \div PLN 5,000$ , for a taxable base higher than PLN 8,000 and not exceeding PLN 13,000;

**PLN 556.02** - for a taxable base higher than PLN 13,000 and not exceeding PLN 85,528;

**PLN 556.02** reduced by an amount calculated using the following formula:  $PLN 556.02 \times (\text{taxable base} - PLN 85,528) \div PLN 41,472$ , for a taxable base higher than PLN 85,528 and not exceeding PLN 127,000;

**PLN 0** for taxable basis exceeding PLN 127,000



The tax-reducing amount mentioned in the table amounts to:

Contribution	Employee	Employer
Retirement pension contribution	9.76 %	9.76 %
Pension contribution	1.5 %	6.5 %
Sickness contribution	2.45 %	N/A
Disability pension	N/A	from 0.4 % to 3.6 %
Health insurance	9 %	N/A
Employment Fund	N/A	2.30 %
Fund of Guaranteed Employment Benefits	N/A	0,1 %
Solidarity Support Fund for Disabled Employees	N/A/	0,15 %
<b>TOTAL</b>	<b>22.71 %</b>	<b>19.21 % – 22.41 %</b>





## WORKING TIME AND VACATION

### General requirements

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

### Paid leave

An employee is entitled to an annual, paid vacation leave amounting to 20 days - if an employee has been employed for less than 10 years, or to 26 days if an employee has been employed for at least 10 years.

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

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

- basic or other equivalent vocational school - the duration of the education provided for by the syllabus, but not more than 3 years
- secondary vocational school - the duration of the education provided for by the syllabus, but not more than 5 years
- secondary vocational school for graduates of basic (equivalent) vocational schools - 5 years
- middle comprehensive school - 4 years
- post-comprehensive school - 6 years
- school of higher education - 8 years

The periods of education cannot be aggregated.



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

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

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

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

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

## Unpaid leave

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

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

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



# TEMPORARY WORK

## General aspects

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

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

The legal scheme of temporary employment is the following:

1. a temporary work agency conducts a contract with a user-undertaking setting forth the rules of leasing of the temporary employee;
2. the temporary work agency employs a temporary employee;
3. the temporary work agency assigns the temporary employee to perform temporary work for the user-undertaking.

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

It shall be noted that unless regulated otherwise, the provisions of labour law concerning the employer and the employee apply accordingly to temporary work agency, temporary employee and user-undertakings. The only exception is the regulation related to group redundancies.

## Minimum requirements and limitations

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

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



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

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

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

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

## Temporary work agencies - obligations

The activity of temporary work agency is regulated by Polish state. In order to conduct such activity each entity should register in the employment Agencies Register kept by the marshal of the voivodship.

In order to be registered as a temporary work agency the following conditions shall be fulfilled:

- the entity cannot have tax, social security, health insurance and the Labour Fund and Guaranteed Employee Benefits Fund arrears
- the entity cannot be criminally recorded
- the entity cannot be subjected to bankruptcy or liquidation proceedings

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

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



## EMPLOYEE CAPITAL PLANS

### General information

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

Regulations concerning PPK are included in the Act on Employee Capital Plans from October 4, 2018.

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

The participation in PPK is voluntary. An employee will be automatically assigned to PPK, however they will be able to resign from paying the contributions based on their written declaration.

In accordance with the adopted Act, the obligation to create a PPK will be spread over time and will depend on the number of people employed in the entity:

THE AMOUNT OF EMPLOYEES	THE ACT IS APPLIED FROM:
> 250	1 <sup>st</sup> July 2019
50 – 249	1 <sup>st</sup> January 2020
20 – 49	1 <sup>st</sup> July 2020
< 19 plus persons employed in the public finance entities	1 <sup>st</sup> January 2021



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

The scheme below depicts the contribution rates:

OBLIGED ENTITY	THE AMOUNT OF PAYMENT
State – welcome contribution	PLN 250
State – annual contribution	PLN 240
Employer – basic contribution	1,5 % of basis of pension and disability insurance contribution
Employer – additional contribution	2,5 % of basis of pension and disability insurance contribution
Employee – basic contribution	2 % of basis of pension and disability insurance contribution
Employee – additional contribution	2 % of basis of pension and disability insurance contribution



## OVERVIEW OF APPLICABLE LEGISLATION

- Labour Code dated 26.06.1974 (Official Journal 2018, position 917)
- Act on promotion of employment and labour market institutions dated 20.04.2004 (Official Journal 2018, position 1265)
- Act on minimum remuneration for work dated 10.10.2002 (Official Journal 2018, position 2177)
- Act on Personal Income Tax dated 26.07.1991 (Official Journal 2018, position 1509)
- Act on Social insurance system dated 13.10.1998 (Official Journal 2017, position 1778)
- Act on employment of temporary workers dated 09.07.2003 (Official Journal 2018, position 594)
- Act on Employee Capital Plans dated 04.10.2018 (Official Journal 2018, position 2215)



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## **ABOUT ACCACE**

With more than 550 professionals and branches in 13 countries, Accace counts as one of the leading outsourcing and advisory services providers in Central and Eastern Europe. During the past years, while having more than 2,000 international companies as customers, Accace set in motion its strategic expansion outside CEE to become a provider with truly global reach.

Accace offices are located in the Czech Republic, Hungary, Poland, Romania, Slovakia, Ukraine, Bosnia and Herzegovina, Croatia, Germany, Macedonia, Montenegro, Serbia and Slovenia. Locations in other European countries and globally are covered via Accace's trusted network of partners.

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