

Newsletter Prawa Pracy i HR

Work-life balance. Changes in the Labor Code in 2022.

Employers must prepare for very significant changes in the field of work-life balance. These changes result from the obligation of introduction into the Polish legal system Directive 2019/1158 of June 20, 2019 on balance between work and private life of parents and guardians. The changes, which are to enter into force on August 1, 2022, will not only include parental and paternity leaves, but also introduce completely new, previously unknown institutions (e.g. leave from work due to force majeure). So what exactly awaits Polish entrepreneurs?

Leave from work due to force majeure – 2 days

Leave from work due to force majeure is a completely new institution in Polish labor law. The employee will be entitled to this leave due to force majeure, in urgent family matters caused by illness or accident, if the employee's immediate presence is necessary for 2 days or 16 hours in a calendar year. What is extremely important, during the period of this leave, the employee retains the right to remuneration in the amount of **half of the remuneration**. The employee decides how to use the leave in a given calendar year in the first application for such a leave submitted in a given calendar year. The employer will be obliged to grant a leave from work on the request made by the employee in the application no later than on the day of using the leave. Furthermore, the employer will be required to allow the employee to work in the current position after the end of the leave due to force majeure, and if this is not possible, in a position equivalent to the one held before the leave or in a different position corresponding to his professional qualifications for remuneration that he would have received if he had not taken the leave.

The leave will be granted to part-time employees in proportion to the working time of this employee. Partial hours of leave from work shall be rounded up to the next full hour.

Carer's leave – 5 days.

An employee will be entitled to a carer's leave of up to 5 days in a calendar year to provide personal care or support to a family member or household member who requires substantial care or support due to serious medical reasons. A family member is a son, daughter, mother, father or spouse. A caring leave is granted upon an application submitted by an employee, in paper or electronic form, within 3 days prior to the commencement of the use of this leave. The application shall indicate the name and surname of the person who requires significant care or support due to serious medical reasons, the reason for the need for personal care or support by the employee and, in the case of a family member, the degree of relationship with the employee or, in the case of a person who is not a family member, the residence address of this person. The period of carers' leave is included in the period of employment on which employee rights depend. During the carer's leave, the employer will not be able to terminate the employment contract, and will also be obliged to admit the employee to work after returning from the leave in the current position (possibly of an equivalent position).

Perhaps most importantly, the regulations **do not provide for the right to remuneration for the duration of the carer's leave**. This can effectively discourage employees from exercising (and certainly abusing) this right.

Changes in parental leaves

Parental leaves will be extended. Employee - the child's parent will have the right to parental leave for the purpose of taking care of the child up to:

1. 41 weeks – in the case of giving birth to one child at one birth

2. 43 tygodni – in the case of giving birth to two or more children at one birth

Each of the employees - parents of the child will have the exclusive right to 9 weeks of parental leave from the leave dimension (from 41 or 43 weeks). This right cannot be transferred to the other employee - the child's parents. Parental leave is granted once or not more than in 5 parts, not later than by the end of the calendar year in which the child reaches the age of 6.

Changes in paternity leave

The period during which the employee is entitled to paternity leave will be shortened. An employee – the father is entitled to paternity leave of up to 2 weeks, but not longer than:

1. until the child reaches the age of 12 months (before it was up to the 24th month of the child's life)
2. or until the expiry of 12 months from the date on which the decision on adoption of the child becomes final and not longer than until the child reaches the age of 7, and in the case of a child against whom the decision to postpone compulsory education has been made, no longer than until they turn 10.

Paternity leave may still be used at once or not more than in 2 parts, none of which may be shorter than a week.

Flexible work organization

Selected employees will have the right to submit an application for the so-called flexible work organization. This application will not be binding on the employer. We are talking about employees caring for a child until the age of 8. For flexible work organization within the meaning of the above-mentioned provision is considered:

1. teleworking, working time systems: intermittent, shortened working week, weekend.
2. flexible working time, individual working time distribution.

3. reducing the working time.

The application for flexible work organization must be submitted within 14 days before the planned commencement of using flexible work organization.

The application includes:

- 1) name and surname of the child;
- 2) the reason for the need to use flexible work organization;
- 3) start and end dates for using flexible work organization.

The employer may refuse by referring to the needs and possibilities of the employer, including the need to ensure continuity of work, work organization or the type of work performed by the employee. After considering the application, the employer informs the employee about the approval of the application or the reason for the refusal to accept the application or about another possible date of using flexible work organization than the one indicated in the application, within 7 days from the date of receipt of the application.

Conclusion

As one can see, employees received a considerable number of rights. For employers, this means the necessity to familiarize themselves with the new regulations and their implementation. The more so as non-compliance with the new regulations is subject to fines. Thus, preparation of the intention to terminate the employment relationship from the date the employee submits an application for a carer's leave or an application for flexible work organization, violation of the provisions on flexible work organization, violation of the provisions on carer's leave, violation of the provisions on leave due to force majeure is subject to a fine from PLN 1,000 to PLN 30,000.



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