



### Changes to the Labour Law in 2010

The new calendar year often brings a number of changes in legislation governing employment and social security issues. We have set out below a summary of the most important changes in the labour law in 2010.

#### Polish Language Law - from 15 October 2009

The recently amended Polish Language Law (Dziennik Ustaw No 161, item 1280) specifies the rules of preparation of employment documentation. Under the new regulations, **employment contracts and other documentation concluded by employers with Polish citizens shall be drafted in Polish.** The employer may also make additional foreign language versions, but the interpretation is based on the Polish version.

Drafting employment documentation solely in a foreign language is possible only at the request of the employee, if he/she does not speak Polish.

#### Court judgement on biometric data - from 1 December 2009

The Supreme Administrative Court has passed a judgement (ref. no. I OSK 249/09) ending a long-running dispute regarding the use of biometric data by employees in electronic work time evidence systems. The Court said that biometric data can be collected and processed only when permitted by specific law (e.g. the Police Act). The Polish Labour Code clearly stipulates the type of personal information which the employer may require from candidates and employees.

Furthermore, according to the Law on Personal Data Protection, personal information should be relevant to the purpose for which it is collected. The use of fingerprints or other biometric data in electronic access control systems is very abusive, because employers have many technical possibilities to control employees' activities and work. **Employers using access systems based on biometric data shall cease using them after 1 December 2009.** Labour Inspectors will pay attention to this during routine inspections.

#### Longer maternity and paternal leaves - from 1 January 2010

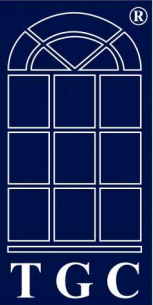
In 2010 female employees will be able to use **an additional 2 weeks of maternity leave.** This extra leave applies to mothers whose primary maternity leave ends on 31 December 2009 or after that date, and is granted by the employer upon written request of the employee and filed at least 7 days in advance (the leave is not extended automatically). The additional 2 weeks are used directly after the primary maternity leave - it is not possible to use it at a later date.

A new leave for fathers of children under the age of 12 months is also introduced. In 2010, they will have the opportunity to use **an additional 1 week of paternal leave.** The employee who would like to use such shall file a written application to the employer at least 7 days in advance. In the case of male employees additional leave may be used at any time before the child reaches 12 months of age.

#### The minimum salary - from 1 January 2010

The minimum base gross salary for full-time employees in 2010 may not be less than **PLN 1,317** (in 2009 this was PLN 1,126 gross). The minimum wage constitutes the basis for the calculation of other employment benefits i.e. for night work, work stoppage, compensation for discrimination and mobbing, compensation for mass redundancy.





## Accident insurance of contractors - from 1 January 2010

To date, contractors performing work outside the company premises or place of conducting business activity were exempt from payment of accident insurance premiums. Since 2010 all persons performing work on the basis of a job order contract (zlecenie), agency agreement or other service contract governed by the Civil Code and who are subject to obligatory premiums for disability and pension insurance, **will also pay premiums for accident insurance**. This obligation results from the Law of 24 April 2009 on amending the law on social insurance system (Dziennik Ustaw No 71, item 609).

## Pre-term Pension Fund - from 1 January 2010

According to the Law of 19 December 2008 on pre-term pensions (Dziennik Ustaw No 237, item 1656), from 2010 employers will have to pay a new type of social insurance premium for the Pre-term Pension Fund (Fundusz Emerytur Pomostowych). This contribution applies to employees born after 31 December 1948 and performing work in special conditions or of a specific nature, which are stipulated in appendices to the Law. **The new provisions allow employers to independently prepare a classification of positions covered by the Law**. Accuracy of the classification will be supervised by the State Labour Inspectorate (PIP), which may order the employer to make changes in accordance with the legal provisions.

An employer's duties include individual preparation of the list of positions under specific work conditions, maintaining records of employees working in special conditions, providing the records to the Social Insurance Office (ZUS), and the calculation and payment of contributions to the Pre-term Pension Fund.

## Temporary work - from 24 January 2010

In 2010 amendments to the Law on employment of temporary workers finally will take effect (Dziennik Ustaw No 221, item 1737), which includes several changes postulated by employers for a long time. The most important change is deletion of Article 3 restricting the right to use temporary workers by employers conducting mass redundancy in the past 6 months. In addition, **the period of performing work by a temporary employee for one employer-user has been extended to 18 months** (previously it was 12 months).

## Contact

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