

Legal Alert

New rules for definite period employment contracts: Senate approves bill to amend the Labour Code



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On 24 July 2015 Poland's Senate adopted a bill amending the Labour Code, including the rules governing definite period employment contracts. The bill, which we discussed on our labour law blog kodeksWpracy.pl, was approved by the Senate without revisions. The act now awaits the President's signature.

The act amends the Labour Code by limiting the types of employment contracts to three: a contract for an indefinite period, a contract for a definite period, and a contract for a probationary period.

The most important changes concern contracts for a definite period. Under the new rules, no more than three contracts for a definite period can be concluded with the same employee, for a combined period of no longer than 33 months. If a fourth contract for a definite period is concluded or the period of employment under one or more such contracts exceeds 33 months, then by operation of law the employee becomes employed for an indefinite period. The current rule that an interruption in work by the employee of greater than one month "resets the timer" and enables further contracts for a definite period to be concluded with the same person will be eliminated.

The new regulations provide for exceptions from this "3/33" rule. For example, it will not apply to contracts for substitution for another employee, or where the employer demonstrates objective grounds on the employer's side justifying hiring a given person for a longer definite period. In the latter case, the employer will be required to notify the regional labour inspector of conclusion of the contract. Under these exceptions, the purpose or circumstances justifying the use of the exception will have to be stated in the employment contract.

The amendment introduces uniform termination notice periods for contracts for a definite period or an indefinite period, including the possibility of terminating a definite period contract upon notice, regardless of the length of the period for which it is concluded.

How will the amendment affect existing definite period contracts?

The new termination rules will apply to contracts for a definite period in force on the effective date of the act if they were concluded for a period of longer than 6 months with the possibility of early termination.

The interim regulations provide for application of the "3/33" rule to contracts in force on the effective date of the act, but their duration will be counted from the effective date of the act. Thus the change in law will not result in automatic conversion into a contract for an indefinite period of definite period contracts that had lasted for longer than 33 months as of the effective date of the act.

The new regulations do not "reset the timer" for successive contracts for a definite period between the same parties. Thus if the second contract is in force on the effective date of the act, only one more contract for a definite period can be signed with the same employee, and the combined length of the existing contract and the next contract cannot exceed 33 months from the effective date of the act.

The act provides that the regulations concerning definite period contracts will enter into force six months after publication of the act.

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