

# Planned amendments to the Labour Code with regard to working hours

Amendments to a number of provisions of the Labour Code are currently the subject of intensive legislative work.

The planned amendments to the Labour Code primarily concern two areas: working hours and employee rights associated with parenthood. This Client Briefing concentrates on the issues related to working hours.

A comprehensive draft of amendments to the provisions on working hours prepared by the Minister of Labour and Social Policy (the "MLSP") is currently being consulted with trade unions and employer representatives through the Trilateral Committee. Therefore, these amendments are not expected to be enacted in 2012. The principal assumption of the planned amendments is to make the provisions on working hours more flexible, which is to mitigate the negative effects of the economic slowdown in Poland. However, certain of the proposals limit the flexibility of organising work and could have unfavourable consequences for certain employers, in particular those running shared services centres and call centres.

We set out below a brief discussion of the most important amendments under discussion.

## Amendments concerning working hours

### Working hours accounts

The most important of the amendments proposed by the MLSP is the introduction of the concept of a "working hours account". Under this proposal, work carried out in excess of the daily and weekly standard working hours limits will not be, as has been the case to date, overtime; instead, overtime will mean work carried out in excess of the number of working hours applicable to the

employee in the relevant settlement period. If this solution was adopted, it would mean that if it was necessary to have employees work for more than eight hours on a given working day, the employer could flexibly balance the work carried out in this way with time off work given by the end of the settlement period. However, the maximum of 13 working hours per day would not change. This is because the rule that an employee must have 11 hours of uninterrupted rest would continue to apply.

### Key issues

- Working hours accounts
- Extension of settlement periods
- Changes to overtime pay
- Introduction of flexible working hours
- Work on Sundays and public holidays in the case of employees doing shift work

## Extension of settlement periods

At the same time, there is a proposal to introduce to the Labour Code the possibility of extending the settlement period from four months to 12 months. However, that possibility would depend on an agreement with any relevant trade unions in a collective bargaining agreement or in a separate arrangement with trade unions. Employers where no trade unions operate would have to make such arrangements in agreements concluded with employee representatives.

## Changes to overtime pay

Additional pay for overtime would be payable to an employee only in a situation where during the relevant settlement period the employee was not given time off in exchange for the overtime hours worked, whereby the amount of the overtime pay would depend on the length

of the settlement period adopted by the employer (i.e. the longer the settlement period, the higher the overtime pay). However, the draft does not indicate any specific amounts of overtime pay because, as we understand it, these amounts are to be the subject of consultations through the Trilateral Committee. relevant Prospectus Directive exemption is available.

## Introduction of flexible working hours

The proposed amendments also expressly provide for the possibility of starting work at various times on individual days, in which case commencing work during the same "employment day" (i.e. before the end of the 24-hour period after work began the preceding day) would not be work during overtime hours, as it is at the moment.

## Work on Sundays and public holidays in the case of employees doing shift work

Currently, one of the exceptions that allows employees to be given work on Sundays and public holidays is giving such work to employees working in a shift work system. The current draft of amendments to the Labour Code eliminates that possibility. The proposal met with harsh criticism from employers because it prevents firms from operating properly that, because of the type of business they run, must work all year round seven days a week (in particular shared services centres, call centres and other firms providing worldwide outsourcing services).

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