

THE LITTLER INTERNATIONAL GUIDE

Poland

Spring 2022 Edition



Authors:

Sławomir Paruch

Robert Stępień

Miłosz Awedyk

Jakub Grabowski

of:

PCS | Littler

Poland

Littler

Fueled by ingenuity.
Inspired by you.

POLAND

POLAND CHAPTER—CONTACT INFORMATION:

Sławomir Paruch slawomir.paruch@pcslegal.pl

Robert Stępień robert.stepien@pcslegal.pl

Miłosz Awedyk milosz.awedyk@pcslegal.pl

Jakub Grabowski jakub.grabowski@pcslegal.pl

Mailing address:

PCS Paruch Chruściel Schiffter | Littler

Plac Marszałka Piłsudskiego 2

00-073 Warszawa

Poland

Telephone: +48 604 198 589

Website: www.pcslegal.pl



ABOUT THE LITTLER INTERNATIONAL GUIDE

The Littler International Guide provides an overview of workplace laws and regulations of over 45 countries and territories. Written by selected attorneys and scholars from around the globe, as well as Littler attorneys, the *Guide* tracks the employment life cycle in a question-and-answer format, covering over 90 workplace law topics under 14 categories. Each jurisdiction provides responses to the same questions, facilitating comparison across jurisdictions. To meet the needs of our expanding audience, it is now available in a variety of electronic formats.

Executive Editor

Peter A. Susser

Littler Shareholder | Global Practice Leader

Co-Managing Editors

Kristen Countryman
Managing Editor/Publications
Knowledge Management

Geida D. Sanlate
Counsel, Knowledge Management

Technical Editor

Deanne Meyer

IMPORTANT NOTICE

This publication is not a do-it-yourself guide to resolving employment disputes or handling employment litigation. Nonetheless, employers involved in ongoing disputes and litigation may find the information useful in understanding the issues raised and their legal context. This publication is not a substitute for experienced legal counsel and does not provide legal advice regarding any particular situation or employer, or attempt to address the numerous factual issues that inevitably arise in any employment-related dispute. This publication is for informational purposes only, not for the purpose of establishing an attorney-client relationship. Use of and access to this publication does not create an attorney-client relationship between the user and Littler Mendelson, P.C. or any of the contributing firms. Although the major developments are generally covered, this publication is not all inclusive, and the current status of any decision or principle of law should be verified by counsel. Developments and decisions subsequent to **January 15, 2022** are generally not covered.

Compilation ©2022 Littler Mendelson, P.C.
Author responses ©2022 Author or Author's firm.
Used under license.

All material contained within this publication is protected by copyright law of the US and various other jurisdictions and may not be reproduced without express written consent.
Contact Littler Mendelson with respect to reproduction.

EDITORIAL NOTICE

Due to the effects of the COVID-19 pandemic, governments across the world have implemented various measures that affect employers (*e.g.*, to slow the spread of the virus, protect workers' health and safety, assist employers to recover from the economic crisis, etc.). Likewise, employers have had to adjust their operations in numerous ways.

Littler's Global Team produces multiple resources to keep multinational employers abreast of COVID-related developments that impact their respective workplaces around the world. Visit Littler's COVID-19 Global Resources, [here](#). Subscribe to receive Global COVID-19 News & Analysis updates, [here](#).

TABLE OF CONTENTS

§ 1 OVERVIEW OF EMPLOYMENT & LABOR LAW IN POLAND	1
§ 1.1 What are the primary constitutional provisions, statutes, and regulations related to employment?	1
§ 1.2 What are the primary mechanisms for enforcement?	2
§ 1.3 What are the primary means for resolving disputes between employees and employers?	2
§ 1.4 What are the most important characteristics of the legal culture relating to employment?	3
§ 1.5 What are the five most common mistakes foreign employers make and what can be done to help avoid them?	3
§ 2 HIRING	4
§ 2.1 What are the definitions of employee, employer, independent contractor, and contingent worker (i.e., a temporary or agency worker)?	4
§ 2.2 What are the consequences of misclassifying a worker as an independent contractor, contingent worker, or temporary worker?	4
§ 2.3 Does your jurisdiction allow or prohibit outsourcing? If allowed, what are an employer's obligations to avoid liability?	5
§ 2.4 What rules apply to background checks?	6
§ 2.5 What rules apply to medical examinations or health-related tests?	6
§ 2.6 May an employer require drug and alcohol testing?	7
§ 2.7 Are there mandated preferences in hiring?	7
§ 2.8 Are there any rules regarding inquiry into an applicant's salary history or prior compensation? Are there any requirements related to employers disclosing the salary range for open positions?	7
§ 2.9 Are there restrictions on filling openings with contingent workers?	7
§ 2.10 Must a foreign employer set up a local entity to employ local workers and, if so, what are the requirements?	7
§ 2.11 What rules apply to the employment of foreign nationals? How much time should an employer allow to obtain the required work authorization documents?	8
§ 3 EMPLOYMENT CONTRACTS	8
§ 3.1 Are written employment contracts required for certain employees?	8
§ 3.2 What terms are required in employment contracts (if any)?	9
§ 3.3 In what language(s) must employment contracts be written?	9
§ 3.4 What rules exist relating to the duration of employment contracts?	9
§ 3.5 Are probationary periods allowed, and if so, what restrictions apply?	10
§ 3.6 Do employment contracts customarily contain covenants to safeguard the employer's intellectual property, covenants not to compete, and/or agreements not to solicit the employer's customers or employees?	10
§ 4 DISCRIMINATION, HARASSMENT & RETALIATION	11
§ 4.1 What prohibitions against discrimination exist, and how are they defined (e.g., what are the specific protected categories)?	11
§ 4.2 What prohibitions exist against religious discrimination, and what accommodations of religious practices are required of the employer?	11
§ 4.3 What prohibitions exist against disability discrimination, and what accommodations of disabilities are required of the employer?	12
§ 4.4 What prohibitions are there against harassment?	12

POLAND

§ 4.5 What exceptions are permitted to the prohibitions against discrimination (e.g., job requirements that mandate hiring candidates of a certain age or gender, or quotas to address past discrimination)? 13

§ 4.6 What prohibitions exist regarding retaliation/reprisal? 13

§ 4.7 May individual persons be liable for discrimination, harassment, or retaliation/reprisal? 13

§ 4.8 Are employers required to investigate allegations of sexual harassment from employees? 13

§ 4.9 Are employers required to provide antiharassment/ antiretaliation training to their workers? 13

§ 5 COMPENSATION 14

§ 5.1 What restrictions are there on hours that may be worked? 14

§ 5.2 What minimum wage requirements exist? 14

§ 5.3 What is the required schedule for paying wages, and in what form and currency must they be paid? 14

§ 5.4 What overtime pay requirements exist? 14

§ 5.5 What bonuses are mandated or customary? 15

§ 5.6 Are there any rules related to pay equity or pay transparency? 15

§ 6 TIME OFF FROM WORK 15

§ 6.1 What public, statutory, or national holidays are required, and what are the requirements if employees work on such holidays? 15

§ 6.2 What are the requirements for short-term sick pay, and who pays it? 15

§ 6.3 What are the requirements for paid vacation or annual leave? 16

§ 6.4 What requirements exist for paid or unpaid maternity and paternity leave? 16

§ 6.5 What requirements are there for new mothers (e.g., part-time work, breaks for breast feeding, or day care)? 17

§ 6.6 What requirements exist for paid or unpaid medical leaves of absence? 17

§ 6.7 What other paid or unpaid leaves of absence must be provided by employers? 17

§ 7 BENEFITS 18

§ 7.1 What benefits must employers furnish to employees? 18

§ 8 CODES OF CONDUCT/WHISTLEBLOWING 18

§ 8.1 Are codes of conduct governing employees required (e.g., internal work rules)? 18

§ 8.2 What whistleblowing protections exist? 18

§ 9 PRIVACY & PROTECTION OF EMPLOYEE PERSONAL INFORMATION 19

§ 9.1 What rules regulate an employer’s obligation to protect the privacy of personal data about employees, and what is the scope of the employees’ protection(s)? 19

§ 9.2 What information must the employer provide to employees before processing (e.g., collecting, storing, using, disclosing, etc.) their personal data, and what are the potential consequences for failure to comply? 20

§ 9.3 What restrictions apply to an employer’s export of its employees’ personal data to related companies in the United States? 21

§ 10 REPRESENTATION OF WORKERS, TRADE UNIONS & WORKS COUNCILS 22

§ 10.1 Do workers have a freedom of association and representation? 22

§ 10.2 Does the law require workers to be a member of a trade union, and/or require the employer to establish a works council? 22

§ 10.3 How do workers obtain trade union representation? 22

§ 10.4 Does the law permit picketing, strikes, lockouts, and/or secondary action? 22

§ 11 WORKPLACE SAFETY	23
§ 11.1 What general health and safety rules apply in the workplace?	23
§ 12 TERMINATION OF EMPLOYMENT	25
§ 12.1 What grounds for dismissal/termination of contract are permitted?	25
§ 12.2 What reasons for dismissal/termination of contract are prohibited?.....	26
§ 12.3 What notice requirements are there for dismissal and may the employer provide pay in lieu of notice?.....	26
§ 12.4 How is termination pay calculated, including any commissions, and when must it be paid?	27
§ 12.5 Are there rights to severance pay and how is severance calculated?.....	27
§ 12.6 How can former employees bring claims on behalf of other workers (i.e., a collective or class action)?.....	28
§ 12.7 May employers compel employees to arbitrate claims of wrongful dismissal?	28
§ 12.8 Can an employer obtain a release of claims from a former employee?	28
§ 12.9 What procedures and terms are required to have an enforceable separation agreement with a former employee?	28
§ 13 COLLECTIVE DISMISSALS (LAYOFFS) & BUSINESS CESSATION	28
§ 13.1 What rules apply to collective dismissals?	28
§ 13.2 Are there special rules that apply when an employer ceases operations?.....	30
§ 13.3 Are certain employees protected from collective dismissal?.....	30
§ 13.4 How long does the collective dismissal process usually take?	30
§ 14 EMPLOYMENT & SALE OF A BUSINESS.....	31
§ 14.1 In the sale of a business’s stocks (shares), what (if anything) does corporate law or labor/employment law require of the seller as to pre-deal-closing notification to, or consultation with, the seller’s employees, employee representatives, or government labor agencies?	31
§ 14.2 Regarding seller’s employees, what (if any) mandates does the law impose on a seller contemplating a stock (shares) sale of its business?.....	31
§ 14.3 In a sale of a business’s assets, do the seller’s employees transfer to the buyer by operation of law?.....	31
§ 14.4 Where a seller of business assets does not intend to employ its staff after closing the asset sale, does the law allow the parties to the asset sale to structure an “employer substitution” or mandatory transfer—so as to avoid triggering severance pay obligations for the asset seller?	32
§ 14.5 How do parties best structure those employer substitutions/transfers? Can they be structured without employee consent?	32
§ 14.6 In the sale of a business’s assets, what (if anything) does corporate law or labor/employment law require of the seller as to pre-deal-closing notification to, or consultation with, employees, employee representatives, or government labor agencies?	32
§ 14.7 Employee transfer issues aside, what rules regarding a seller’s employees and labor agreements govern a “transfer of undertakings” in the sale of a business’s assets?.....	32
§ 14.8 Before a buyer consummates either a stock (shares) or asset purchase of another business that has its own, separate workforce, what (if anything) does the law expressly require regarding notice to, or consultation with, the buyer’s own existing workforce, employee representatives, or with government labor agencies?	33