

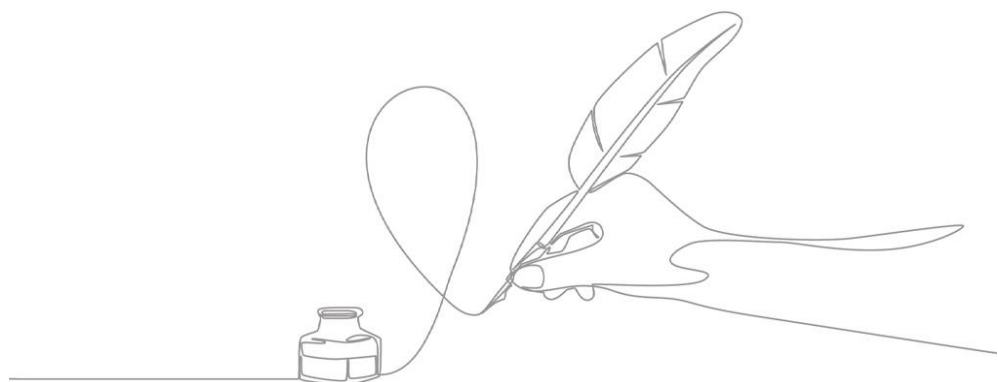
Dear Readers,

our October issue of *HR Perspectives* focuses on:

- 1) **inflation-linked pay increases** – employers are receiving a barrage of requests for inflation-linked pay rises from their employees and trade unions, sparked by the increased cost of living and rampant inflation. Moreover, these demands are backed up by inflation-linked pay rise provisions in collective agreements and company pay rules. We discuss how to deal with these demands.
- 2) **the minimum monthly salary increase in 2023** and its consequences for employers – the minimum salary is going to be raised twice in 2023. First, from PLN 3010 gross to PLN 3490 and then to PLN 3600. Compared to the current rates, this means a 16% increase in January and almost 20% in July.
- 3) the **Employee Workplace Inspection Service** - we recommend what employers should look out for and when to take decisive action.

Enjoy reading!

Agnieszka Nicińska-Chudy
Robert Stępień



Inflation-linked pay rises - how to deal with such requests?

The current economic situation and high inflation make employees and trade unions more likely to request inflation-linked pay increases. The situation is even more tricky for companies that have included inflation-linked pay rise provisions in their collective agreement or company pay rules. While such increases were reasonable when the inflation rate was at 5%, now it soared to almost 16% and threatens to further upset the already precarious financial situation of many employers.

However, entrepreneurs may take advantage of some emergency measures provided by law. First of all, it is possible to terminate such internal provisions. As a first step, it will be necessary to review the employer's internal regulations and check what specific obligations result from them. It will not always be an obligation to grant pay raises. Sometimes a salary review will be enough. However, if it turns out that there is a pay rise obligation included, the next step would be to assess available options and potential risks of terminating either particular clauses or entire agreements.

And what if trade unions bring the issue to a head and, instead of sitting down for talks, raise the demand for inflation-linked pay increases as part of an industrial dispute? Then it would have to be established whether the demands are not beyond the employer's actual financial capacity. After all, if it turns out that granting pay rises in the amount proposed by the trade union exceeds the company's profits, it could be considered an abuse of rights which, in turn, could invalidate the grounds for an industrial dispute. According to the legal doctrine, it is clear that the demands put forward in an industrial dispute cannot exceed the employer's financial capacity. Making unrealistic financial demands flies in the face of this approach.

If the issue of pay increases has been pre-agreed with a trade union, the union would have to terminate such agreements first to instigate an industrial dispute.

Minimum salary to be increased twice in 2023

According to the recently issued regulation of the Council of Ministers on the amount of the minimum monthly salary and hourly rate, next year will bring two increases in the minimum monthly and hourly pay. On 1 January, the minimum salary will be PLN 3490, and on 1 July - PLN 3600. This also triggers the change of the minimum hourly rate, which will increase first to PLN 22.80 and then to PLN 23.50, respectively. It is being said that the reason behind the decision to increase the minimum pay twice was the ever-increasing inflation.

Increasing the minimum pay will require amending some employment contracts by concluding an appropriate amending agreement. This applies to those contracts in which the remuneration was set out as the current minimum wage, i.e. at the level of PLN 3010 gross or higher but lower than PLN 3490 gross per month.

As a result of increasing the minimum pay, benefits linked to the level of the minimum pay will have to be changed as well. They include, for example, allowances for night work, sick pay (referred to in Article 92 of the Labour Code) and sick allowance, as well as severance pay for termination of the employment contract through no fault of an employee. Therefore, employers are facing a significant cost increase next year.

The amount of the minimum pay will also change the amount of taxes, including advances for personal income tax, and social security contributions, as well as the maximum amount of deductions from remuneration allowed under the Labour Code.

Increases in the minimum pay may also have a significant impact on salaries at the higher pay grade levels. It may happen that following the increases, employees who get the new minimum pay will earn more than their colleagues at higher ranks. This means that the pay review will have to be carried out for these ranks as well.

Employee Workplace Inspection Service in the company - what to look out for

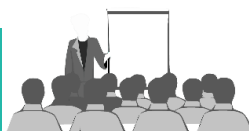
In practice, the actions of the Employee Workplace Inspection Service are often the cause of concern for employers. A growing number of employee workplace inspectors seek only to protect their employment or, in fact, is a trade union representative at the workplace, campaigning for the union. In both cases, this is an abuse of the law.

First of all, it is worth remembering that the activity of the employee workplace inspection service in a company should be always adjusted to the structure of the particular workplace. It is also important for the employer to check whether the employees performing the role of workplace inspectors are, in fact, competent to do so.

For example, if such inspectors are often on sick leave for an extended period or frequently breach company rules, it means that they should not perform this function. Indeed, the selection of an employee as a workplace inspector cannot boil down to covering that employee with protection against termination.

Attention should also be paid to how the trade union runs the election for workplace inspectors. If the election is carried out in a non-transparent or haphazard manner, then the employer should step in. Even more so, when the employer receives information about illegal union activities that comes from the employees themselves, outraged by the attitude of trade unionists. Notably, workplace inspectors should be elected by all employees. If trade unions carry out elections in a way that deprives employees of the opportunity to participate, such elections are invalid and have no legal effect.

You will find information about the upcoming PCS | Littler events and interesting publications by our lawyers below.



Webinar: Responsibility of foreign directors and managers for employment in Poland: compliance and white-collar crime in transborder HR

Please join our meeting organised with the British-Polish Chamber of Commerce.

Date: 28 October 2022, 2:30-3:00 p.m. (CEST), online.

Speakers: Sławomir Paruch, Marcin Sanetra.

Registration form: [here](#).

The event will be held in English.



Littler ranked among the most
feared law firms in litigation

The BTI Consulting Group



Littler was named as “Awesome Opponent” by BTI Consulting in BTI’s 2023 ranking of law firms most feared in litigation.

Congratulations to all the other Awesome Opponents!