

Dear Readers,

This March issue of *HR Perspectives* focuses on **how to prepare for the changes in employment law**. And there are quite a few of them - remote working, drug and alcohol testing, as well as regulations implementing the new EU directives concerning work-life balance and transparent and predictable working conditions.

We have prepared a **"checklist"** for you to determine what steps need to be taken. It will help you keep track of what has already been done and what still requires your attention.

We also discuss **"payroll advances"**, which have become an increasingly popular form of employee benefit. However, it gives rise to the issue of consent for deductions. We explain why we believe the employee's consent does not necessarily have to be in writing.

Enjoy your reading!

Agnieszka Nicińska-Chudy
Robert Stępień



How to prepare for changes in employment law?

Authors:

Sławomir Paruch, attorney-at-law, partner, slawomir.paruch@pcslegal.pl

Bartosz Wszeborowski, advocate, senior lawyer, bartosz.wszeborowski@pcslegal.pl

Michalina Lewandowska-Alama, trainee attorney-at-law, lawyer, michalina.lewandowska-alama@pcslegal.pl

The beginning of 2023 brought a lot of changes in the Labour Code. New regulations on drug and alcohol testing came into force at the end of February, and on 7th April regulations on remote working will become effective. Employers must also get ready for changes coming out of the two EU Directives implementation.

Here is a list of tasks to be performed by HR departments. We will gladly support you in this process.

REMOTE WORK		
What do you need to remember?		Done? Tick off!
Remote working rules and regulations	<ul style="list-style-type: none"> Existing telework regulations and whether it will be possible to apply them until 7th October 2023. 	
	<ul style="list-style-type: none"> Remote working rules. 	
	<ul style="list-style-type: none"> Rules for clocking-in and out and requesting an employee to come to the workplace. 	
	<ul style="list-style-type: none"> How to protect personal data and respect confidentiality. 	
Basic remote work documents	<ul style="list-style-type: none"> Draw up the following templates: <ul style="list-style-type: none"> A request to perform remote work; An application for remote work; A statement for employees that they know and understand the occupational risk assessment, health and safety information, data protection procedures and ensure their remote workplace complies with ergonomic requirements; A request to stop remote work. 	
Remote working costs	<ul style="list-style-type: none"> The method and rules about covering the cost of remote working, including a lump sum. 	
Supervision over a remote worker	<ul style="list-style-type: none"> The method and rules for supervising a remote employee. 	
Health and Safety	<ul style="list-style-type: none"> Occupational risk assessment and information on safe and hygienic working conditions, including workplace ergonomics. 	
Remote working from abroad	<ul style="list-style-type: none"> Assessment of risks related to work performed outside Poland. 	

DRUG AND ALCOHOL TESTING		
Work rules and regulations	<ul style="list-style-type: none"> Review the existing work rules and regulations concerning employee drug and alcohol testing. 	
	<ul style="list-style-type: none"> Rules for testing: time, method and groups covered by testing. 	
	<ul style="list-style-type: none"> Rules for testing non-employees and remote employees for drugs and alcohol. 	
Data processing authorization	<ul style="list-style-type: none"> Choose a person authorised to carry out testing on behalf of the employer. 	
Employee files	<ul style="list-style-type: none"> Add part "E" to employee personal file. 	
<p>The comprehensive process of implementing remote work has been described in detail in the publication: <i>Remote work and workplace drug & alcohol testing - how to apply the new regulations.</i></p>		
EU DIRECTIVES		
Employment contracts for a trial period	<ul style="list-style-type: none"> Reviewing existing templates for employment contracts for a trial period. 	
Termination of fixed-term contracts	<ul style="list-style-type: none"> Changing the procedure for terminating fixed-term employment contracts and the template for the notice of termination. 	
Additional employment of an employee	<ul style="list-style-type: none"> Drawing up/reviewing non-competition agreements with key employees. 	
New information on employment conditions	<ul style="list-style-type: none"> New template for information on employment terms and conditions. Supplementary information for existing employees available on request. 	
Carer's leave	<ul style="list-style-type: none"> New application forms (paper or electronic). 	
Parental leave		
Paternity leave		
Force majeure leave	<ul style="list-style-type: none"> New application form (paper or electronic). 	
More transparent and predictable working conditions	<ul style="list-style-type: none"> New application forms (paper or electronic) for: <ul style="list-style-type: none"> changing the type of employment contract for an indefinite period contract; more transparent and predictable working conditions. 	
Flexible working time	<ul style="list-style-type: none"> New application form (paper or electronic). 	
Breaks at work	<ul style="list-style-type: none"> Review work rules and regulations. 	

An in-depth discussion about the changes coming out of the EU directives implementation is included in the following publication: *Summary for employers - what changes will EU directives bring?*

WHAT CHANGES ARE EXPECTED?

Whistleblower Protection Act	<ul style="list-style-type: none"> Employer will have to set up an internal reporting procedure, among others. 	<ul style="list-style-type: none"> The date of entry into force is not yet known
National Cancer Network Act	<ul style="list-style-type: none"> Two paid days off work for Honorary Blood Donors - on the day of donation and the following day. 	<ul style="list-style-type: none"> The date of entry into force is not yet known

Payroll advances - does the consent for deductions have to be in writing?

Author: **Kamil Nazimek**, trainee attorney-at-law, lawyer, kamil.nazimek@pcslegal.pl

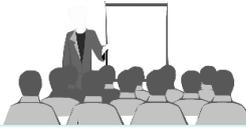
Part of the salary paid to the employee's account as early as the middle of the month? It's a solution that has recently made its way into employee benefits programs. It allows employees to get a payroll advance in the month for which their salary will be due and then the amount of their salary paid on the standard payday would be reduced by the received payroll advance.

In all likelihood, most employees will welcome this option with open arms. Just a few clicks would be enough to make the impatient waiting for payday a thing of the past.

But let's move on to discuss the compliance of payroll advances with legislation. Here is a catch: according to the regulations, salary deductions for purposes other than those explicitly mentioned in the Labor Code can only be made with the employee's consent in writing. However, the term "in writing" needs clarification. Does it mean in written form as defined in the Civil Code, namely a hard copy with a handwritten signature of an employee? Or can it mean consent in a form of a document, which allows employees, even those who don't have certified electronic signatures, to give their consent electronically?

Resolving this issue is crucial because employees cannot give their employers blanket consent for any future deductions without specific amounts and dates for deductions. PCS | Littler believes that "in writing" does not necessarily mean a hard copy with a hand-written signature and consent can also be given by email or through a dedicated application. However, it doesn't change the fact that the regulations need to be amended and adjusted to reflect current circumstances.

Here is a list of upcoming events which we hope you will be able to attend.



Conference: From crisis to crisis. An employee more valuable than ever before

Date: 30th March 2023, 10:30-13:15, on-site, Kraków.

Speakers: Bartosz Wszedorowski, Kinga Ciosk.

Organizer: British Polish Chamber of Commerce.

Application form: [here](#).



Chambers and Partners 2023 Employment Ranking:

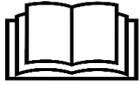
- PCS Paruch Chruściel Schiffter Stępień Kanclerz | Littler among the best law firms on the market (Band 3).
- Sławomir Paruch among the best lawyers (Band 1)

We would like to thank our Clients and Colleagues whose feedback helped us to be recognised among the best law firms in Poland. More: [here](#).



HR TV - a series of video comments from our lawyers to the most important issues in the area of HR law.

We invite you to watch the videos [here](#).



Employment Restructuring 2023 - a guidebook published jointly with Rzeczpospolita. It answers many questions about how to effectively apply various corrective measures and carry out the restructuring process in a company. The guide-book covers such issues as:

- How to modify the terms and conditions of employment?
- Non-wage benefits - how to attract the best employees.
- Working time.
- Remote working regulations in the Labor Code.
- How to terminate an employment relationship?
- Voluntary separation scheme.
- Transition from employment contract to B2B.