

GMS Flash Alert



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Poland - Seconded Persons Act Brings New Obligations for Employers

On 18 June 2016, the provisions of Poland's Seconded Persons Act entered into force.¹ The new rules aim to introduce into Polish legislation the provisions of the European Union (EU) directives² concerning the posting of workers in the framework of the provision of services.

WHY THIS MATTERS

This new legislation imposes a number of obligations on, and new procedures to be followed by, companies sending their staff to Poland. Penalties may be imposed if employers are deemed to be non-compliant.

New Obligations for Employers Sending Employees to Work in Poland

The most important change for employers concerns new processes under which the Polish Labour Inspectorate will be able to verify whether rules regarding assigned individuals have been followed, in particular:

- Whether the company sending the employee to work in Poland actually carries out genuine business activity in the country where its headquarters are located, and
- That the assignment is of a temporary nature.

Moreover, employers sending assignees to work in Poland will be obliged to:

1. File a declaration to the Labour Inspectorate, at the latest by the day the employee starts work in Poland.

2. Appoint a person to act as a point of contact with the Labour Inspectorate (“contact person”). This individual should be based in Poland during the period of the assignment.
3. Maintain and upon request make available to the authorities documentation concerning the assigned individual during the period of assignment and for two years following the end of the assignment.³

Deadlines

The foreign employer is obliged to meet the above obligations (filing the declaration and nominating a contact person) no later than the first day the employee works in Poland.

In the case of assignments already underway on the date the new regulations came into force (18 June 2016), the employer has to meet the above obligations within three months, i.e., by 18 September 2016.

Penalties

Penalties of between PLN 1,000 and PLN 30,000 (approx. EUR 200 – EUR 6,500) can be imposed for failure to meet the new obligations.

Rules May Also Affect Polish Employers

The new regulations also apply to Polish companies sending employees to work abroad. At the request of the Labour Inspectorate, they will be required to provide information about their business in Poland and the conditions under which their employees are assigned to work abroad.

FOOTNOTES:

1 Dziennik Ustaw (Journal of Laws) 2016, position 868. For text of the statute (in Polish), see: <http://dziennikustaw.gov.pl/du/2016/868> .

2 Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (‘the IMI Regulation’). See: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0067> .

3 More information can be found (in English) on the Web site of the Chief Labour Inspectorate:

https://www.pip.gov.pl/en/news-events/74136_new-provisions-concerning-the-posting-of-workers-in-the-framework-of-the-provision-of-services.html .

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Contact us

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