

The Labour Code
z dnia 23 grudnia 1997 r. (Dz.U. tłum. gb 1998 Nr 21, poz. 94)

(zm.)

Dział pierwszy. Przepisy ogólne.

Rozdział I. Introductory provisions.

Art. 1. Scope of regulation. The Labour Code defines the rights and duties of employees and employers.

Art. 2. Definition of an employee. An employee is a person employed on the basis of an employment contract, an appointment, an election, a nomination or a co-operative employment contract.

Art. 3. Definition of an employer. An employer is an organisational unit, even if it has no legal personality, or an individual, provided it employs employees.

Art. 3¹. Entity performing acts concerning labour law.

§ 1. In the case of an employer being an organisational unit, any acts concerning labour law are performed by the person or authority managing that unit, or by another person assigned to carry out these acts.

§ 2. The provision of § 1 applies accordingly to an employer being an individual, if the employer does not personally perform the acts referred to in that provision.

Art. 4 (deleted)

Art. 5. Special labour regulations - priority of application. If an employment relationship concerning a specified category of employees is regulated by special provisions, the provisions of this Code apply to the extent not regulated by those provisions.

Art. 6 (abrogated)

Art. 7 (deleted)

Art. 8. Abuse of a subjective right. No one is allowed to exercise any rights in the manner that would be contrary to their socio-economic objective or the principles of community co-existence. Any such act or omission by a person exercising their right is not considered an exercise of that right and is not protected.

Art. 9. Sources of labour law.

§ 1. For the purposes of the Labour Code, labour law includes the provisions of the Labour Code and the provisions of other laws and subordinate legislation setting out the rights and duties of employees and employers, as well as provisions of collective labour agreements and of other collective agreements, regulations and statutes based on the law and determining the rights and duties of the parties to an employment relationship.

§ 2. The provisions of collective labour agreements and collective agreements, as well as of regulations and statutes, may not disadvantage employees more than the provisions of the Labour Code and other laws and subordinate legislation.

§ 3. The provisions of regulations and statutes may not disadvantage employees more than the provisions of collective labour agreements and collective agreements.

§ 4. The provisions of collective labour agreements and other collective agreements, regulations and statutes based on the law and determining the rights and duties of the parties to an employment relationship, are not binding if they violate the principle of equal treatment in employment.

Art. 9¹. Agreement to suspend the application of workplace provisions of labour law.

§ 1. If it is justified by the financial situation of an employer, agreements can be concluded suspending the application of all or part of the provisions of labour law determining the rights and duties of the parties to an employment relationship; this does not apply to the provisions of the Labour Code and the provisions of other laws and subordinate legislation.

§ 2. The agreements referred to in § 1 are concluded between an employer and a trade union representing the employees; if no such organisation is operating in the employer, it is the employer and representatives of the employees chosen in the standard manner adopted by the employer that conclude the agreement.

§ 3. The suspension of the application of the provisions of labour law may not be for more than three years. The provision of Article 241²⁷ § 3 applies accordingly.

§ 4. The employer must present the agreement to the relevant district labour inspector.

§ 5. The provisions of § 1⁴ do not violate the provisions of Article 241²⁷.

Rozdział II. Basic principles of labour law.

Art. 10. Right to work.

§ 1. Everyone has the right to choose their work freely. No one, except for the cases specified by the law, can be prevented from exercising their profession.

§ 2. The State determines the minimum remuneration for work.

§ 3. The State pursues a policy with the goal of full productive employment.

Art. 11. Principle of discretion when establishing of an employment relationship. Establishing an employment relationship, as well as determining work and remuneration conditions, regardless of the legal basis of this relationship, requires an unanimous statement of intent from the employer and the employee.

Art. 11¹. Respect for personal rights. Employers are obliged to respect the dignity and other personal rights of employees.

Art. 11². Principle of equality of employees. Employees have equal rights in respect of the same performance of the same duties; this applies in particular to the equal treatment of men and women in employment.

Art. 11³. Prohibition against discrimination in employment. Any discrimination in employment, direct or indirect, in particular in respect of gender, age, disability, race, religion, nationality, political views, trade union membership, ethnic origin, creed, sexual orientation or in respect of the conditions of employment for a definite or an indefinite period of time or full or part time, are prohibited.

Art. 12 (deleted)

Art. 13. Right to respectful remuneration. Employees have the right to a respectful remuneration for work. The conditions for exercising this right are specified by the provisions of labour law, as well as by the state remuneration policy, in particular by specifying the minimum remuneration for work.

Art. 14. Right to rest. Employees have the right to rest, guaranteed under the provisions on working time, time off and annual leave.

Art. 15. Healthy and safe working conditions. Employers are obliged to ensure healthy and safe working conditions for their employees.

Art. 16. Welfare, social and cultural needs of employees. Employers, as far as possible given the conditions, should satisfy the welfare, social and cultural needs of employees.

Art. 17. Improvement of professional qualifications. Employers are obliged to enable employees to improve their professional qualifications.

Art. 18. Principle of privilege of employees.

§ 1. The provisions of employment contracts and other acts on the basis of which an employment relationship is established may not disadvantage an employee more than the provisions of labour law.

§ 2. Any provisions of the contracts and acts defined in § 1 that are less favourable to an employee than the provisions of labour law are invalid; the appropriate provisions of labour law will apply instead.

§ 3. The provisions of employment contracts and other acts on the basis of which an employment relationship is established and which violate the principle of equal treatment in employment are invalid; the appropriate provisions of labour law will apply instead, and if there are no such provisions, then the appropriate provisions of a non-discriminatory character will apply instead.

Art. 18¹. Right to unite.

§ 1. Employees and employers, for the purpose of representation and the protection of their rights and interests, have the right to establish and join organisations.

§ 2. The principles of establishing and operating the organisations referred to in § 1, are set out in the Act on Trade Unions, the Act on Employers' Organisations and other provisions of law.

Art. 18². Employee participation. Employees participate in the management of a work establishment as far as and in accordance with the principles specified in separate provisions.

Art. 18³. Conditions that allow the exercise of rights. Employers and administrative authorities are obliged to provide conditions that allow the exercise of the rights determined in the provisions as defined in Articles 18¹ and 18².

Rozdział IIa. Equal treatment in employment.

Art. 18^{3a}. Prohibition against discrimination in employment.

§ 1. Employees should be treated equally in relation to establishing and terminating an employment relationship, employment conditions, promotion conditions, as well as access to training in order to improve professional qualifications, in particular regardless of sex, age, disability, race, religion, nationality, political beliefs, trade union membership, ethnic origin, creed, sexual orientation, as well as regardless of employment for a definite or indefinite period of time or full time or part time employment.

§ 2. Equal treatment in employment means that there must be no discrimination whatsoever, directly or indirectly, on the grounds referred to in § 1.

§ 3. Direct discrimination is taken to occur where one employee, on one or more grounds referred to in § 1, has been, is or would be treated in a comparable situation less favourably than other employees.

§ 4. Indirect discrimination is taken to occur where an apparently neutral provision, criterion or practice places or would place all or a considerable number of employees belonging to a particular group on the grounds of one or more reasons referred to in § 1 at a disproportionate disadvantage, or at a particular disadvantage in relation to the establishment and termination of an employment relationship, employment conditions, promotion conditions, as well as access to training in order to improve professional qualifications, unless that provision, criterion or practice is objectively justified by a legitimate aim to be achieved, and the means of achieving that aim are appropriate and necessary.

§ 5. Discrimination within the meaning of § 2 is also taken to include:

- 1) practices related to encouraging another person to violate the principle of equal treatment in employment, or a person is ordered to violate that principle,
- 2) unwanted conduct with the purpose or effect of violating the dignity of an employee and of creating an intimidating, hostile, degrading, humiliating or offensive atmosphere (harassment).

§ 6. Discrimination on the grounds of sex also includes any form of unwanted conduct of a sexual nature, or in relation to the sex of an employee with the purpose or effect of violating the dignity of an employee, in particular when creating an intimidating, hostile, degrading, humiliating or offensive atmosphere; this conduct may include physical, verbal or non-verbal elements (sexual harassment).

§ 7. The submission of an employee to harassment or sexual harassment, as well as his conduct in order to reject harassment or sexual harassment, cannot inflict any negative consequences toward the employee.

Art. 18^{3b}. Violation of the principle of equal treatment.

§ 1. The violation of the principle of equal treatment in employment, subject to § 2⁴, means an employer treating an employee differently on one or more grounds referred to in Article 18^{3a} § 1 with the effect of, in particular:

- 1) terminating or rejecting the establishment of an employment relationship,
- 2) establishing disadvantageous conditions of remuneration for work or other employment, or not being selected for promotion or not being granted other work-related benefits,
- 3) not being chosen to participate in training organised to improve professional qualifications, unless the employer proves that this was due to objective reasons.

§ 2. The principle of equal treatment in employment is not violated by conduct aimed at legitimately differentiating the situation of an employee that includes:

- 1) not employing an employee on one or more grounds referred to in Article 18^{3a} § 1 where the type of work or the conditions of its performance mean that the characteristic or the characteristics referred to in that provision constitute a genuine and determining occupational requirement for the employee,
- 2) serving a notice of termination of employment conditions to an employee in relation to the length of working time, provided it is justified for reasons not concerning employees and without referring to other grounds listed in Article 18^{3a} § 1,
- 3) applying means that differentiate the legal situation of an employee in respect of the protection of parenthood or disability,
- 4) applying the criterion of the employment period in establishing employment and dismissal conditions, remuneration and promotion principles, as well as access conditions to training to improve professional qualifications which justifies a different treatment of employees in respect of age.

§ 3. The principle of equal treatment in employment is not violated by conduct undertaken for a certain period of time, aimed at creating equal opportunities for all or a considerable number of employees distinguished by one or more grounds referred to in Article 18^{3a} § 1, by reducing the actual inequalities for an advantage of such employees to the extent determined in that provision.

§ 4. The principle of equal treatment is not violated where churches and other religious societies, as well as organisations the ethics of which is based on religion, creed or world-view deter access to employment on the grounds of religion, creed or world-view provided the type or characteristics of the activity conducted by the churches and other religious societies, as well as organisations causes that the religion, creed or world-view are a real and decisive occupational requirement for the employee, proportional to reaching a lawful aim of the differentiation of the situation of such a person; it also concerns the requirement for the employed to act in good faith and loyalty towards the ethics of the church, other religious society and organisation the ethics of which is based on religion, creed or world-view.

Art. 18^{3c}. Equal treatment in remunerating.

§ 1. Employees have the right to equal remuneration for the same work or for work of an identical value.

§ 2. The remuneration referred to in § 1 includes all components of remuneration, regardless of their name or characteristics, as well as other work-related benefits granted to employees in cash or non-cash form.

§ 3. Work of an identical value means work that demands from employees not only comparable professional qualifications, certified by documents provided for in separate provisions or by practice and professional experience, but also comparable responsibility and effort.

Art. 18^{3d}. Consequences of violation of the principle of equal treatment in employment. A person against whom an employer has violated the principle of equal treatment in employment has the right to compensation of at least the amount of the minimum remuneration for work, determined in separate provisions.

Art. 18^{3e}. Protection of an employee exercising his rights in respect of the principle of equal treatment in employment.

§ 1. The fact that an employee has exercised his rights due to a violation of the principle of equal treatment in employment may not constitute a reason for the disadvantageous treatment of the employee and may not result in any negative consequences toward the employee; in particular, it may not constitute grounds for the termination of an employment relationship by an employer, with or without notice.

§ 2. The provision of § 1 applies accordingly in relation to an employee who has provided any support to an employee using his rights due in respect of a violation of the principle of equal treatment in employment.

Rozdział IIb. Supervision and control of observance of labour law.

Art. 18⁴. State Labour Inspectorate, State Sanitary Inspectorate.

§ 1. Supervision and control of the observance of labour law, including the provisions and principles of health and safety at work, is exercised by the State Labour Inspectorate.

§ 2. Supervision and control of the observance of the principles, provisions of work hygiene, as well as conditions of the work environment, are exercised by the State Sanitary Inspectorate.

§ 3. The organisation and scope of action of the inspectorates referred to in § 1 and 2 will be specified in separate provisions.

Art. 18⁵. Social labour inspectorate.

§ 1. Social inspection of the observance of labour law, including provisions and principles of health and safety at work, are exercised by the social labour inspectorate.

§ 2. The organisation, tasks and rights of the social labour inspectorate, as well as the principles of its co-operation with the State Labour Inspectorate and other State supervision and control authorities will be specified in separate provisions.

Rozdział III

(deleted)

Art. 19 (deleted)

Art. 20 (deleted)

Art. 21 (deleted)

Dział Drugi. Employment Relationship.

Rozdział I. General provisions.

Art. 22. Employment relationship.

§ 1. By establishing an employment relationship, an employee undertakes to perform work of a specified type for the benefit of an employer and under his supervision, in a place and at the times specified by the employer; the employer undertakes to employ the employee in return for remuneration.

§ 1¹. Employment under the conditions specified in § 1 is considered employment on the basis of an employment relationship, regardless of the name of the contract concluded between the parties.

§ 1². Employment contracts cannot be replaced with a civil law contract where the conditions of the performance of work specified in § 1 remain intact.

§ 2. Anyone over the age of 18 can be an employee. Under the conditions specified in Section nine, anyone under the age of 18 may also be an employee.

§ 3. A person with a limited legal capacity may, without the consent of their statutory representative, establish an employment relationship and perform acts in law relating to that relationship. However, if the employment relationship is contrary to the interests of that person, their statutory representative may terminate the employment relationship with the prior consent of a custody court.

Art. 22¹. Disclosure of personal data to an employer.

§ 1. An employer may demand a person applying for employment to provide the following personal data, including:

- 1) name(s) and surname,
- 2) names of parents,
- 3) date of birth,
- 4) residential address (address for correspondence),
- 5) education,
- 6) employment history.

§ 2. An employer may also demand an employee to present, regardless of the personal data referred to in § 1:

- 1) other personal data of the employee, as well as names, surnames and dates of birth of the children of the employee, if it is necessary for an employee to exercise special rights provided for by the labour law,
- 2) the PESEL number of the employee issued by the Government Information Centre of the Common Electronic System for the Registration of Population (Rz dowe Centrum Informatyczne Powszechnego Elektronicznego Systemu Ewidencji Ludno ci - RCI PESEL).

§ 3. Personal data are provided to an employer in the form of a statement by the person whom the personal data concern. The employer has the right to demand the certification of the personal data of the persons referred to in § 1 and 2.

§ 4. An employer may demand personal data other than those referred to in § 1 and 2, provided the duty to present them results from separate provisions.

§ 5. To the extent not regulated in § 1², the provisions on the protection of personal data apply to the personal data referred to in the provisions therein.

Art. 23 (deleted)

Art. 23¹. Transfer of a work establishment to another employer.

§ 1. If a work establishment or its part is transferred to another employer, that employer, by operation of law, becomes a party to the existing employment relationships, subject to the provisions of § 5.

§ 2. The existing and the new employer are severally liable for the obligations resulting from the employment relationship that arose before the transfer of part of the work establishment to another employer.

§ 3. If there are no trade unions acting at the employers referred to in § 1, the existing and the new employer will inform their employees, in writing, about the expected date of the transfer of the work establishment or its part to a new employer, the reasons of the transfer, the legal, economic and social effects of the transfer for the employees, and about intended acts concerning the employment conditions of employees, and in particular, concerning work remuneration and requalification conditions; this information must be presented at least 30 days prior to the expected date of the transfer of the work establishment or its part to another employer.

§ 4. Within 2 months of the transfer of the work establishment or its part to another employer, the employee may, without notice, but with seven days' prior notification, terminate an employment relationship. The termination of the employment relationship in accordance with this procedure has the same effects on the employees as those provided for in the provisions of labour law in relation to the termination of an employment relationship with notice by an employer.

§ 5. Upon the transfer of the work relationship or its part, an employer is obliged to propose new work and remuneration conditions to any employees who had been working on a basis other than an employment contract, and to specify a time limit of at least 7 days within which the employees may declare whether they accept or refuse the proposed conditions. If new work and remuneration conditions are not agreed, the existing employment relationship is terminated at the end of the time period equal to the notice period, calculated as of the date on

which the employee declared that he rejects the proposed conditions, or as of the date by which the employee could have made such a declaration. The provision of § 4, sentence 2 applies accordingly.

§ 6. The transfer of the work establishment or its part to another employer does not constitute grounds for an employer to terminate an employment relationship with notice.

Art. 23^{1a}. Agreement on the application of less favourable employment conditions.

§ 1. If it is justified by the financial situation of an employer not covered by a collective labour agreement, or employing fewer than 20 employees, an agreement may be concluded on the application of less favourable employment conditions of employees than those resulting from employment contracts concluded with the employees, to the extent and for the time set out in the agreement.

§ 2. The provisions of Article 9¹ § 1⁴ apply accordingly.

Art. 23². Co-operation with an enterprise trade union. If the provisions of labour law provide for an employer to co-operate with an enterprise trade union in individual cases related to an employment relationship, the employer is obliged to co-operate in such cases with the enterprise trade union representing the employee in respect of his membership in the trade union, or in respect of the consenting to the protection of the rights of an employee not covered by the trade union in accordance with the Act on Trade Unions.

Art. 24 (deleted)

Rozdział II. The employment contract.

Oddział 1. Conclusion of an employment contract.

Art. 25. Types of employment contracts.

§ 1. An employment contract is concluded for an indefinite period of time, a definite period of time or the time of the completion of a specified task. If it is necessary to substitute an employee due to their justified absence from work, an employer may, for this purpose, employ another employee under an employment contract for a definite period of time comprising the absence.

§ 2. Each of the employment contracts referred to in § 1, may be preceded by an employment contract for a trial period of up to 3 months.

Art. 25¹. Conclusion of a third contract for a definite period of time.

§ 1. The conclusion of a subsequent employment contract for a definite period of time has the equivalent legal effects as the conclusion of an employment contract for an indefinite period of time, if the parties had previously concluded two employment contracts for a definite period of time in succession, where the interval between the termination of the preceding and the establishment of the subsequent employment contract was no longer than 1 month.

§ 2. If, within the duration of an employment contract for a definite period of time, the parties agree upon a longer period of performance of work than previously provided for, it is deemed that the parties have concluded, from the date following the termination of the previous contract, a subsequent employment contract for a definite period of time as defined in § 1.

§ 3. The provision of § 1 does not apply to employment contracts for a definite period of time concluded:

- 1) for the purpose of substituting an employee during a justified absence from work,
- 2) for the purpose of completing occasional or seasonal work, or tasks performed periodically.

Art. 26. Date of establishment of an employment relationship. An employment relationship is established on the date specified in the employment contract as the date of commencing work, and if this date is not specified on the date of the conclusion of the employment contract.

Art. 27 (deleted)

Art. 28 (deleted)

Art. 29. Form and contents of an employment contract; obligatory information on the work order.

§ 1. An employment contract must specify the parties to the contract, the type of contract, the date of its conclusion, as well as the work and remuneration conditions, and in particular:

- 1) the type of work,
- 2) the place of performing the work,
- 3) the remuneration corresponding to the type of work, with a specification of the remuneration components,
- 4) the length of working time,
- 5) the date of commencing work.

§ 2. An employment contract must be made in writing. If an employment contract is not made in writing then the employer must, at the latest on the date when the employee commences work, provide the employee with a written statement of the settlements in relation to the parties to the contract, the type of the contract as well as its conditions.

§ 3. The employer must inform an employee, in writing, not later than within 7 days of the date of concluding the employment contract about:

- 1) the standard daily and weekly working time binding an employee,
- 2) the frequency of the remuneration payments,
- 3) the length of annual leave to which an employee is entitled,
- 4) the length of the notice period binding upon the termination of the employee's employment contract,
- 5) any collective labour agreement that covers an employee, and, if the employer is not obliged to establish work regulations additionally about the night-time hours, the place, date and frequency of remuneration payments, and the adopted procedure of confirming the arrival and presence of employees at work, as well as the procedure of excusing their absence from work.

§ 3¹. An employee may be informed about the employment conditions referred to in § 3 points 1?4 in a letter indicating the appropriate labour law provisions.

§ 3². The employer must inform an employee, in writing, about a change to his employment conditions referred to in § 3 points 1?4, about the employee being covered by a collective labour agreement, and about any amendments to the collective labour agreement covering the employee; employees must be informed immediately, and not later than within 1 month from the date of implementing those changes, and if the employment contract would be terminated prior to the lapse of that period of time not later than by the date of the termination of the employment contract.

§ 3³. An employee may be informed about the change to his employment conditions referred to in § 3 points 1?4 in a letter indicating the appropriate labour law provisions.

§ 4. Any change to the conditions of the employment contract must be made in writing.

§ 5. The provisions of § 1-4 apply accordingly to employment relationships established on a basis other than an employment contract.

Art. 29¹. Delegating to work in a country that is not a European Union Member State.

§ 1. An employment contract with an employee who has been delegated to work abroad in a country that is not a European Union Member State for a period exceeding 1 month, in addition to the conditions specified in Article 29 § 1, must determine:

- 1) the duration of performing work abroad,
- 2) the currency in which the remuneration will be paid to the employee while performing work abroad,

§ 2. Prior to delegating an employee to work abroad, the employer must additionally inform the employee, in writing, about:

- 1) the benefits to which the employee will be entitled in respect of being delegated to work abroad, including the reimbursement of travelling costs and the provision of accommodation,
- 2) the conditions of the employee's return to the country.

§ 3. The employee may be informed about his employment conditions referred to in § 2 in a letter indicating the appropriate provisions of law.

§ 4. The employer must inform the employee, in writing, about any change to his employment conditions referred to in § 2 immediately, not later than within 1 month from the date of implementing those changes, and if the employment contract would be terminated prior to the lapse of that period of time not later than by the date of the termination of the contract.

§ 5. The employee may be informed about a change to his employment conditions referred to in § 2 in a letter indicating the appropriate provisions of law.

§ 6. The provisions of § 1?5 apply accordingly to employment relationships established on a basis other than an employment contract.

Art. 29². Prohibition against discrimination of part-time employees.

§ 1. Concluding an employment contract with an employee providing for part-time employment must not establish their work and remuneration conditions in a manner that is less favourable in relation to employees performing the same or similar work full time, though taking into account the principle of proportionality of the remuneration for work and of other work-related benefits, in relation to the length of working time of the employee.

§ 2. An employer should, as far as possible, accept a request from an employee in relation to changing the length of working time determined in the employment contract.

Oddział 2. General provisions on the termination of an employment contract.

Art. 30. Termination of an employment contract.

§ 1. An employment contract is terminated:

- 1) by mutual consent of the parties,
- 2) upon a declaration of one of the parties observing the termination notice period (termination of an employment contract with notice),
- 3) upon a declaration of one of the parties without observing the termination notice period (termination of an employment contract without notice),
- 4) after the expiry of the time period for which it has been concluded,
- 5) upon the date of the completion of the task it was concluded for.

§ 2. An employment contract for a trial period is terminated upon the lapse of that period, or earlier by notice of termination.

§ 2¹. The termination notice period of an employment contract covering one or more weeks or months ends on a Saturday or on the last day of the month, accordingly.

§ 3. A statement on the termination of an employment contract by either party, with or without notice, must be made in writing.

§ 4. A statement on the termination of an employment contract concluded for an indefinite period of time by the employer, with or without notice, must provide grounds justifying the termination of the contract.

§ 5. A statement on the termination of an employment contract by an employer, with or without notice, must include information on the employee's right to appeal to the labour court.

Art. 31 (*deleted*)

Oddział 3. Termination of an employment contract with notice.

Art. 32. Termination of a contract with notice.

§ 1. Either party may terminate an employment contract concluded for:

- 1) a trial period,
- 2) *(deleted)*,
- 3) an indefinite period of time - with notice.

§ 2. An employment contract will terminate on the day that the period of notice expires.

Art. 33. Termination with notice of a contract concluded for a definite period of time. Upon the conclusion of an employment contract for a definite period of time of more than 6 months, the parties may provide for the early termination of an employment contract with a two-week period of notice.

Termination with notice of a contract for substituting an employee Article 33¹

For an employment contract concluded for a definite period of time under the circumstances referred to in Article 25 § 1 sentence two, the period of notice amounts to 3 working days.

Art. 34. Period of notice for a contract for a trial period. The period of notice for an employment contract concluded for a trial period amounts to:

- 1) 3 working days if the trial period does not exceed 2 weeks,
- 2) 1 week if the trial period is longer than 2 weeks,
- 3) 2 weeks if the trial period is 3 months.

Art. 35 *(deleted)*

Art. 36. Period of notice for a contract for an indefinite period of time.

§ 1. The period of notice for an employment contract concluded for an indefinite period of time depends on the employment period with a given employer and amounts to:

- 1) 2 weeks if an employee has been employed for less than 6 months,
- 2) 1 month if an employee has been employed for at least 6 months,
- 3) 3 months if an employee has been employed for at least 3 years.

§ 1¹. The employment period referred to in § 1 includes the period for which an employee was employed with a previous employer, if the change of the employer was made in accordance with the principles specified in Article 23¹, as well as in other cases where, under separate law provisions, the new employer is a legal successor to employment relationships established by the employer who had previously employed the employee.

§ 2. *(deleted)*

§ 3. *(deleted)*

§ 4. *(deleted)*

§ 5. If an employee is employed in a job position involving financial liability for assigned assets, the parties may agree in the employment contract that, in the case referred to in § 1 point 1, the termination notice period amounts to 1 month, and in the case referred to in § 1 point 2, 3 months.

§ 6. After one of the parties serves notice of termination of the employment contract, they may agree upon an earlier date for the termination of the employment contract; any such agreement must not modify the procedure for the termination of an employment contract.

Art. 36¹. Shortened period of notice due to the bankruptcy or liquidation of an employer.

§ 1. If an employment contract concluded for an indefinite period of time is terminated due to the declaration of bankruptcy or liquidation of the employer, or for other reasons not concerning the employees, the employer may, in order to terminate the employment contract early, shorten the three-month period of notice to no less than 1 month's notice. In this case, the employee retains the right to compensation equal to the remuneration for the remaining part of the notice period.

§ 2. The period for which the employee is entitled to compensation is included in the employment period of an employee who remains out of work within that period.

Art. 37. Time off for looking for a job.

§ 1. Within a notice period of at least two weeks, upon termination of an employment contract by an employer, the employee is entitled to time off for the purpose of seeking other employment; the right to remuneration for this period of time remains unaffected.

§ 2. The amount of time off is:

- 1) 2 working days within a notice period of two weeks or one month,
- 2) 3 working days within a notice period of three months, or if it is shortened under Article 36¹ § 1.

Art. 38. Consultation of notice with an enterprise trade union.

§ 1. An employer must notify, in writing, an enterprise trade union representing an employee of the intention to terminate an employment contract concluded for an indefinite period of time with notice, and must provide grounds justifying the termination of the contract.

§ 2. If the enterprise trade union decides that the notice would be unjustified, it may, within 5 days from receiving the notification, present the employer with justified objections, in writing.

§ 3. *(deleted)*

§ 4. *(deleted)*

§ 5. The employer must consider the opinion of the trade union, if any is given within a specified period of time, before deciding on notice of termination.

Art. 39. Protection before reaching retirement age. An employer must not serve a notice of termination on an employee who will reach the retirement age in not more than 4 years, if his employment period would enable him to receive a retirement pension upon reaching this age.

Art. 40. Protection exemption before reaching retirement age. The provision of Article 39 does not apply if an employee acquires the right to a pension on the grounds of the total incapacity to work.

Art. 41. Protection during a justified absence from work. An employer may not serve a notice of termination on an employee during that employee's leave, or during any other justified absence of the employee from work, if the period justifying the termination of the employment contract without notice has not ended yet.

Art. 41¹. Declaration of bankruptcy or liquidation of employer.

§ 1. Upon the declaration of bankruptcy or the liquidation of an employer, the provisions of Articles 38, 39 and 41, or any special provisions on the protection of employees against the notice or termination of an employment contract do not apply.

§ 2. Upon the declaration of bankruptcy or the liquidation of an employer, an employment contract concluded for a definite period of time, or for the time of the completion of a specified task, may be terminated by either party with two weeks notice.

§ 3. *(deleted)*

§ 4. *(deleted)*

Art. 42. Changing notice.

§ 1. The provisions on the termination of an employment contract with notice apply accordingly to a notice of termination of work and remuneration conditions specified in the employment contract.

§ 2. A notice of termination of work or remuneration conditions is considered to have been made when the employee is provided with the new conditions, in writing.

§ 3. If the employee rejects the proposed work or remuneration conditions, the employment contract is terminated at the end of the notice period. If the employee does not make a declaration on rejecting the proposed conditions within half of the notice period, the conditions are considered to have been accepted by the employee; the letter of the employer including notice of termination of work or remuneration conditions should include this information. If this information is not provided, the employee may reject the proposed conditions at any time until the end of the notice period.

§ 4. No notice of termination of the existing work or remuneration conditions is required if the employee is assigned, where justified by the needs of the employer, with work other than that specified in the employment contract, for a period of up to 3 months in a calendar year, provided that it does not result in the reduction in the remuneration of the employee and corresponds to the employee's qualifications.

Art. 43. Changing notice in the period before retirement. An employer may serve a notice of termination of work or remuneration conditions on an employee referred to in Article 39, if serving notice becomes necessary on the grounds of:

- 1) the introduction of new remuneration principles covering all employees employed with a given employer, or a group of employees including the employee;
- 2) the loss of the ability to perform the existing type of work, confirmed by a medical certificate, or the loss of the rights necessary to perform the work, where the loss is not through the fault of the employee.

Oddział 4. Rights of the employee in the case of an unjustified or unlawful termination of the employment contract

by the employer.

Art. 44. Appeal against notice. An employer may appeal against the termination of an employment contract to the labour court referred to in Section twelve.

Art. 45. Ineffectiveness of notice; reinstatement.

§ 1. If the labour court determines that the termination of an employment contract concluded for an indefinite period of time is unjustified or violates the provisions of law on serving notice on employees, the labour court at the demand of an employee will declare the notice of termination ineffective, and if the contract has already been terminated will decide on reinstating the employee in his job on the previous conditions, or on compensation.

§ 2. The labour court may reject an employee's demand to declare the notice of termination ineffective or to reinstate the employee in a job if it determines that the demand is impossible or pointless; in such a case the labour court awards compensation.

§ 3. The provisions of § 2 do not apply to the employees referred to in Articles 39 and 177, or to employees referred to in special provisions on the protection of employees against notice or the termination of the employment contract, unless the employee's demand to be reinstated in his job is impossible for the reasons referred to in Article 41¹; in such a case the labour court awards compensation.

Art. 46 *(deleted)*

Art. 47. Remuneration after reinstatement. If an employee returns to work as a result of reinstatement, he is entitled to remuneration for the period of being out of work, but not more than 2 months remuneration, and if the notice period was for 3 months then not more than 1 months remuneration. If an employment contract was terminated with the employee referred to in Article 39, or with a female employee who is pregnant or on maternity leave, the employee is entitled to remuneration for the entire period of being out of work; this also applies where an employment contract is terminated with a male employee raising his child on maternity leave, or when the termination of the employment contract is subject to restrictions under special provisions.

Art. 47¹. Limits on the compensation amount. The compensation referred to in Article 45 is due in the amount of the remuneration for the period of 2 weeks to 3 months, though not less than the remuneration for the period of notice.

Art. 48. Refusal to re-employ.

§ 1. An employer may refuse to reinstate an employee if, within 7 days of the reinstatement, the employee does not report a readiness to commence work immediately, unless this period was exceeded for reasons beyond the employee's control.

§ 2. An employee who established employment with another employer prior to reinstatement, may, without notice but with three days prior notification, terminate the employment contract with the latter employer within 7 days of the reinstatement. The termination of the employment contract in accordance with this procedure has the same results as those provided for by the provisions of law concerning the termination of an employment contract by an employer with notice.

Art. 49. Period of notice shortened in violation of the law. If serving a termination notice period shorter than required, the employment contract is terminated at the end of the required period of time, and the employee is entitled to remuneration until the termination of the contract.

Compensation for a violation of provisions on terminating Article 50 term contracts with notice

§ 1. If the notice of termination of an employment contract concluded for a trial period has been served in violation of the provisions on terminating such contracts, the employee is entitled to compensation only. The compensation amounts to the remuneration due until the end of the trial period set out in the contract.

§ 2. *(deleted)*

§ 3. If the notice of termination of an employment contract concluded for a definite period of time, or for the time of the completion of a specified task, has been served in violation of the provisions on terminating such contracts, the employee is entitled to compensation only.

§ 4. The compensation referred to in § 3 amounts to the remuneration due until the end of the period set out in the contract, but not more than 3 months remuneration.

§ 5. The provision of § 3 does not apply when serving a notice of termination of an employment contract with a female employee who is pregnant or during maternity leave, in relation to a male employee raising his child during maternity leave as well as in relation to an employee within the protection period of their employment relationship on the basis of the provisions of the Act on Trade Unions. In such cases the provisions of Article 45 apply accordingly.

Art. 51. Inclusion into the employment period.

§ 1. If an employee returns to work as a result of reinstatement, the period of being out of work, and for which the employee was remunerated, is included in that employee's employment period. A period of being out of work for which the employee was not remunerated is not considered an interruption in employment resulting in the loss of rights depending on continuous employment.

§ 2. If an employee has been awarded compensation, the period of being out of work, equivalent to the period for which compensation has been granted, is included in that employee's employment period.

Oddział 5. Termination of an employment contract without notice.

Art. 52. Termination of a contract without notice through the fault of an employee.

§ 1. An employer may terminate an employment contract without notice through the fault of the employee:

- 1) in the event of a grave violation by the employee of the employee's basic duties,
- 2) if the employee commits a crime, while under the employment contract, which prevents the further employment of the employee in the occupied job position, if the crime is obvious or has been declared by a valid sentence,
- 3) if the employee, through his fault, loses a licence required to perform work in the occupied job position.

§ 2. An employment contract cannot be terminated without notice through the fault of the employee more than 1 month after the employer obtains information about the circumstances justifying the termination of the employment contract.

§ 3. The employer decides on the termination of the employment contract following consultation with an enterprise trade union representing the employee, which must be informed about the grounds justifying the termination of the contract. If the enterprise trade union has objections concerning the correctness of the termination of the employment contract, it must express its opinion immediately, and not later than within 3 days.

§ 4. *(deleted)*

Art. 53. Termination of a contract without notice through no fault of an employee.

§ 1. An employer may terminate an employment contract without notice:

- 1) if an employee is unable to work as a result of an illness:
 - a) for more than 3 months if the employee has been employed with a given employer for less than 6 months,

- b) for longer than the total period of receiving welfare and sickness benefits on that account, as well as receiving rehabilitation allowance for the first 3 months if the employee has been employed with a given employer for at least 6 months, or if the incapacity to work was caused by an accident at work or an occupational disease,

- 2) if an employee has any justifiable absence from work for reasons other than those specified in point 1, lasting for more than 1 month.

§ 2. An employment contract cannot be terminated without notice if the employee is absent from work due to taking care of a child while receiving allowance on this account, or if the employee is in isolation due to a contagious disease while receiving welfare and sickness benefits on this account.

§ 3. An employment contract cannot be terminated without notice after the employee has reported to work after an absence.

§ 4. The provisions of Article 36 § 1¹ and of Article 52 § 3 apply accordingly.

§ 5. An employer should, as far as possible, reinstate an employee who reports to work immediately after the reasons for an absence referred to in § 1 and 2 cease to exist, if within 6 months of the termination of the employment contract without notice.

Art. 54 *(deleted)*

Art. 55. Termination of a contract without notice by an employee.

§ 1. An employee may terminate an employment contract without notice if a medical certificate has been issued declaring a harmful effect of the work performed on the health of the employee, and the employer, within the period of time determined in the medical certificate, fails to transfer the employee to another position appropriate for his health condition and corresponding to his professional qualifications.

§ 1¹. An employee may also terminate an employment contract in the manner determined in § 1 where an employer has committed grave violations of his basic duties towards the employee; in such a case, the employee is entitled to compensation in the amount due for the notice period, and if the employment contract has been concluded for a definite period of time or for the time of the completion of a specified task in the amount of the

remuneration for the period of 2 weeks.

§ 2. A statement on the termination of the employment contract by an employee without notice must be in writing, and must provide grounds justifying the termination of the contract. The provision of Article 52 § 2 applies accordingly.

§ 3. The termination of an employment contract for the reasons determined in § 1 and § 1¹ results in the same consequences as those provided for by the provisions of law for the termination of an employment contract by the employer with notice.

Oddział 6. The rights of the employee in the event of the unlawful termination of an employment contract without notice by the employer.

Art. 56. Claims of an employee.

§ 1. If an employer terminates an employment contract with an employee without notice, in violation of the provisions of law on the termination of the employment contracts in that manner, the employee can claim reinstatement on the former conditions, or compensation. The labour court decides on reinstatement or on compensation.

§ 2. The provisions of Article 45 § 2 and 3 apply accordingly.

Art. 57. Remuneration following reinstatement.

§ 1. An employee who has returned to work as a result of reinstatement is entitled to remuneration for the time of being out of work, but not more than 3 months and not less than 1 month remuneration.

§ 2. If an employment contract was terminated with an employee referred to in Article 39, or with a female employee during pregnancy or maternity leave, the employee is entitled to remuneration for the entire period of being out of work; this also applies when an employment contract is terminated with a male employee raising his child during maternity leave, or when the termination of the employment contract is subject to restrictions pursuant to special provisions.

§ 3. *(deleted)*

§ 4. The provisions of Articles 48 and 51 § 1 apply accordingly.

Art. 58. Compensation. The compensation referred to in Article 56 amounts to the remuneration due for the period of notice. The compensation for the termination of an employment contract concluded for a definite period of time or for the time of the completion of a specified task amounts to the remuneration due for the time until which the contract was to continue, though not more than 3 months remuneration.

Art. 59. Compensation in the case of term contracts. If an employment contract concluded for a definite period of time or for the time of the completion of a specified task is terminated by the employer, without notice, in violation of law provisions on the termination of employment contracts without notice, the employee is entitled to compensation only if the time period until which the contract was to continue has elapsed, or if reinstatement would be pointless as the remaining period is short. The compensation is due in the amount determined in Article 58.

Art. 60. Termination in the course of a period of notice. If an employer has terminated an employment contract within the period of notice, in violation of the provisions on the termination of employment contracts without notice, the employee is entitled to compensation only. The compensation amounts to the remuneration due for the time until the expiry of the period of notice.

Art. 61. Reference. The provision of Article 51 § 2 applies accordingly to an employee who has been granted compensation under the provisions of this Part.

Oddział 6a. The rights of an employer in the event of the unjustified termination of an employment contract without notice by the employee.

Art. 61¹. Claim of an employer for compensation. In the case of an unjustified termination of an employment contract by an employee without notice under Article 55 § 1¹, the employer has the right to claim compensation. The labour court decides on the compensation.

Art. 61². Amount of compensation.

§ 1. The compensation referred to in Article 61¹ amounts to the remuneration of the employee for the period of notice, and in the case of the termination of an employment contract concluded for a definite period of time or for the time of the completion of a specified task remuneration for the period of 2 weeks.

§ 2. If the court awards compensation, the provisions of Article 55 § 3 do not apply.

Art. 62 *(deleted)*

Oddział 7. The expiry of an employment contract.

Art. 63. The expiry of an employment contract. A employment contract expires in the cases determined in the Code and in special provisions.

Art. 63¹. Death of an employee.

§ 1. An employment relationship expires upon the death of an employee.

§ 2. After the death of an employee, property rights under an employment relationship pass in equal parts to the spouse and other people who meet the conditions needed to obtain a family pension in the meaning of the provisions on retirement and disability pensions from the Social Insurance Fund. If there are no such people, the rights become part of the estate.

Art. 63². Death of an employer.

§ 1. Employment contracts with employees expire upon the death of the employer, subject to the provision of § 3.

§ 2. An employee whose employment contract has expired for the reasons referred to in § 1, is entitled to compensation amounting to the remuneration for the period of notice, and in the case of the conclusion of an employment contract for a definite period of time or for the time of the completion of a specified task amounting to the remuneration for a period of 2 weeks.

§ 3. The provision of § 1 does not apply if an employee is taken over by a new employer in accordance with the principles determined in Article 23¹.

Art. 64 (deleted)

Art. 65 (deleted)

Art. 66. Detention awaiting trial.

§ 1. An employment contract expires after an employee is absent from work for 3 months while on detention awaiting trial, unless an employer has earlier terminated the employment contract without notice through the fault of the employee.

§ 2. Despite the expiry of the employment contract on the grounds of detention awaiting trial, the employer is obliged to re-employ the employee if the criminal proceedings are discontinued or when a court decision clearing the employee is issued, and the employee reports for work within 7 days of the date on which the court decision becomes legally valid. The provisions of Article 48 apply accordingly.

§ 3. The provisions of § 2 do not apply if the criminal proceedings are discontinued due to being barred by limitation or due to amnesty, or if the criminal proceedings have been discontinued due to a condition.

Art. 67. Appeal to the labour court. If an employer violates the provisions of this part, an employee has the right to appeal to the labour court. With regard to claims, the provisions of Part 6 of this Chapter apply accordingly.

Rozdział IIa. Employment conditions for employees delegated from a European Union Member State to work in

the Republic of Poland.

Art. 67¹. Duty to ensure adequate employment conditions.

§ 1. The provisions of this Chapter apply to an employee delegated to perform work in the Republic of Poland for a definite period of time by an employer with its registered office in a European Union Member State.

§ 2. The employer referred to in § 1 who is delegating an employee to work in the Republic of Poland:

- 1) in relation to the performance of a contract concluded by this employer with a foreign entity,
- 2) in a foreign branch of this employer,
- 3) as an agency for temporary work - must ensure that the employee, to the extent determined in Article 67², has employment conditions that are not less favourable than those applicable under the Labour Code and other provisions regulating rights and duties of employees.

Art. 67². Minimum employment conditions.

§ 1. The employment conditions concern:

- 1) standards and length of working time as well as periods of daily and weekly rest,
- 2) length of annual leave,
- 3) minimum remuneration for work, determined pursuant to separate law provisions,
- 4) amount of bonus for overtime work,
- 5) health and safety at work,
- 6) rights of employees in relation to parenthood,
- 7) employment of juveniles, as well as work and other paid jobs performed by children,
- 8) the prohibition against discrimination in employment,
- 9) performing work in accordance with the provisions on employing temporary employees.

§ 2. The provisions of § 1 points 2-4 do not apply to the employees referred to in Article 67¹ if, due to their qualifications, they work for up to 8 days a year on a given job position, from the date of commencing work on a given job position, performing initial assembly or installation works outside of the construction sector, as provided for in the contract concluded by the employer with a foreign entity, where the performance is necessary to use the delivered goods.

Art. 67³. Duty to ensure adequate employment conditions. The provisions of Articles 67¹ and 67² apply accordingly to an employee delegated to work in the Republic of Poland by an employer with its registered office in a country not being a European Union Member State.

Art. 67⁴. Application exemption. The provisions of this Chapter do not apply to enterprises of the merchant navy in relation to the staff on merchant ships if an employer has its registered office in a Member State of the European Union or in the Member State of the European Free Trade Association (EFTA) a party to the agreement on the European Economic Area.

Rozdział IIb. Employment in the form of telework.

Art. 67⁵. Place of performing work; definition of a teleworker.

§ 1. Work may be performed away from the premises of an employer, on a regular basis, by means of information and communications technologies (ICTs) in the meaning of the provisions on rendering services by electronic means (telework).

§ 2. A teleworker is any person carrying out telework under the conditions specified in § 1 and presenting the effects of work to an employer, in particular by means of information and communications technologies (ICTs).

Art. 67⁶. Agreement with a trade union.

§ 1. The conditions of an employer applying telework must be defined in an agreement between the employer and an enterprise trade union, and if there is more than one enterprise trade union acting at the employer, then in an agreement between the employer and those trade unions.

§ 2. If it is not possible to agree upon the contents of the agreement with all the enterprise trade unions, then the employer must agree upon the contents of the agreement with all representative trade unions, in the meaning of Article 241^{25a}.

§ 3. If, according to § 1 and 2, no agreement has been reached within 30 days of the employer presenting the draft agreement, then the employer must define the conditions of telework in the workplace regulations, taking into account the settlements made with the enterprise trade unions in the course of reaching the agreement.

§ 4. If there are no enterprise trade unions acting at the employer, the conditions for applying telework must be set out by the employer in the workplace regulations, after prior consultation with the representatives of employees chosen in the standard method adopted at a given employer.

Art. 67⁷. Agreement on the conditions of work.

§ 1. Work performed under the conditions defined in Article 67⁵ may be agreed upon between the parties to an employment contract:

- 1) when concluding the employment contract, or
- 2) subsequently during the employment.

§ 2. If the parties agree to perform telework when concluding the employment contract, the employment contract must additionally determine the conditions of work in accordance with Article 67⁵.

§ 3. During the employment, the workplace conditions may be changed from those defined in accordance with Article 67⁵ by agreement between the parties, or at the employees or the employers request. The employer should, when feasible, comply with the request of the employee in relation to the performance of work in the form of telework.

§ 4. The assignment of work in the form of telework is not permissible under Article 42 § 4.

Art. 67⁸. Request to stop work in the form of telework.

§ 1. Within 3 months from the date of undertaking work in the form of telework, in accordance with Article 67⁷ § 1 point 2, each of the parties may submit a binding request to stop working in the form of telework and to reintroduce the previous conditions of work. The parties will set out the date from which the reinstatement of the previous conditions of work performance will take place, though not later than 30 days from the date of receiving the request.

§ 2. If a teleworker submits a request after the expiry of the period specified in § 1, the employer should, when feasible, comply with that request.

§ 3. After the expiry of the period specified in § 1, the previous conditions of work may be reinstated by the employer under the procedure determined in Article 42 § 1⁷³.

Art. 67⁹. No grounds justifying notice of termination of an employment contract. If an employee does not consent to a change in the workplace conditions as defined in Article 67⁷ § 3, or stops working in the form of telework under the conditions determined in Article 67⁸, this cannot constitute grounds justifying the notice of termination of the employment contract by the employer.

Art. 67¹⁰. Additional information.

§ 1. If work is established in the form of telework in accordance with Article 67⁷ § 1 point 1, the information defined in Article 29 § 3 must additionally include at least the following:

- 1) the identity of an organisational unit of an employer within the structure of which the job position of the teleworker should be found,
- 2) the identity of a person or authority, as defined in Article 3¹, responsible for co-operation with the teleworker and entitled to conduct inspections in the place where the telework is performed.

§ 2. In the case referred to in Article 67⁷ § 1 point 2, the employer provides a teleworker with the written information specified in § 1 points 1 and 2, at the latest on the day that the teleworker starts work in the form of telework.

Art. 67¹¹. Duties of an employer.

§ 1. The employer is obliged to:

- 1) provide a teleworker with equipment necessary to perform telework, meeting the requirements specified in Chapter IV of Section Ten,
- 2) insure the equipment,
- 3) cover the costs of installing, servicing, operating and maintaining the equipment,
- 4) provide the teleworker with appropriate technical support facility and necessary training targeted at the service of the equipment - unless the employer and the teleworker provide otherwise in a separate agreement referred to in § 2.

§ 2. An employer and a teleworker may, in a separate agreement, determine in particular:

- 1) the scope of insurance and the rules of using by the teleworker of the equipment necessary for the performance of telework, owned by the teleworker and fulfilling the requirements specified in Chapter IV of Section Ten,
- 2) the rules of communication between the employer and the teleworker, including the manner in which the teleworker confirms his presence on a job position,
- 3) the procedure and form of control over the teleworkers work.

§ 3. In the case referred to in § 2 point 1, the teleworker is entitled to a cash equivalent in an amount determined in an agreement or in workplace regulations as referred to in Article 67⁶, or in the agreement referred to in § 2. In determining the amount of the equivalent, it is in particular the levels of wear and tear on the equipment, the certified market prices of the equipment, and the amount of material used for the needs of the employer and the market prices of the material that should be taken into account.

Art. 67¹². Data protection.

§ 1. The employer sets out the rules of data protection for data transferred to the teleworker, and, when feasible, the employer will conduct a briefing and provide training for that purpose.

§ 2. The teleworker confirms, in writing, that he has been made aware of the rules of data protection referred to in § 1, and will be obliged to comply with them.

Art. 67¹³. Means of individual distance communication. A teleworker and an employer provide each other with information necessary for joint communications using information and communications technologies (ICTs), or by similar means of individual distance communication.

Art. 67¹⁴. Inspections of the telework performed.

§ 1. The employer is entitled to carry out an inspection of the telework performed by the teleworker at the work place.

§ 2. Where the telework is performed at the teleworkers home, the employer has the right to inspect:

1) the progress of the telework performed,

2) for the purpose of stocktaking, maintenance, service or repair of the assigned equipment, as well as its installation,

3) within the scope of health and safety at work - with the prior consent of the employee, expressed in writing or by means of electronic communications, or similar means of individual distance communication.

§ 3. The employer adjusts the inspection procedure to suit the place of performing work and the work characteristics. Conducting an inspection must not violate the privacy of the employee and his family, or prevent the appropriate use of the home premises.

§ 4. The first inspection, within the scope specified in § 2 point 3, is conducted, at the request of the teleworker, prior to the date the teleworker begins to perform work.

Art. 67¹⁵. Prohibition on discrimination against teleworker.

§ 1. A teleworker may not be treated in a less favourable manner in relation to undertaking or terminating an employment relationship, employment conditions, promotion and access to training to improve professional qualifications than other employees employed in the same or similar position, taking into account the particular conditions of the work performed in the form of telework.

§ 2. An employee may not be discriminated against whatsoever in respect of establishing telework, as well as refusing to establish this type of work.

Access to the workplace Article 67¹⁶

The employer must ensure that the teleworker, in accordance with the rules adopted for all employees, may access the premises of the employing establishment, contact other employees, use the employers offices, technical equipment and social facilities, and be covered under the employers social activity.

Art. 67¹⁷. Health and safety at work. If the teleworker is working from home, the employer must perform the duties specified in Section ten towards the teleworker, in respect of the type and conditions of the work performed, except for:

1) the duty to ensure health and safety in the workplace, determined in Article 212 point 4,

2) the duties determined in Chapter III of this Section,

3) the duty to ensure appropriate hygiene and sanitary facilities, determined in Article 233.

Rozdział III. Employment relationship on the basis of an appointment, an election, a nomination and a co-operative employment contract.

Oddział 1. Employment relationship on the basis of an appointment.

Art. 68. Establishment of an employment relationship.

§ 1. An employment relationship is established on the basis of an appointment in the cases specified under separate law provisions.

§ 1¹. An employment relationship referred to in § 1 is established for an indefinite period of time, and if an employee has been appointed for a definite period of time under special provisions of law, the employment relationship is established for the period covered by that appointment.

§ 2. (*deleted*)

Art. 68¹. Competition for a post. Appointment may be preceded by a competition, even if special provisions do not require a candidate to be chosen for a post exclusively by a competition.

Art. 68². Date of establishing an employment relationship; form.

§ 1. An employment relationship on the basis of an appointment is established within the period specified in the appointment letter, and if the period has not been specified upon the delivery of the appointment letter, unless special provisions provide otherwise.

§ 2. Appointment must be made in writing.

Art. 68³. Termination of the previous employment relationship. If an employee is appointed to a post through a competition, while remaining in an employment relationship with another employer where the employee has three

months period of notice, the employee may terminate this relationship with one months notice. The termination of the employment relationship in accordance with that procedure has the same consequences as the provisions of law provide for the termination of the employment contract by an employer with notice.

Art. 69. Appropriate application of provisions of law concerning employment contracts for an indefinite period of time. Unless the provisions of this Part provide otherwise, the provisions governing employment contracts for an indefinite period of time apply to employment relationships on the basis of an appointment, except for the provisions on:

- 1) the procedure for the termination of employment contracts,
- 2) the resolution of disputes in relation to an employment relationship, in the part concerning:
 - a) the ineffectiveness of notices,
 - b) (*abrogated*)
 - c) reinstatement in a job.

Art. 70. Discretion to recall.

§ 1. An employee employed on the basis of an appointment may be, at any time immediately or within a specified period of time recalled from his post by the authority that appointed him. This also applies to an employee who has been appointed to a post for a definite period of time under special provisions of law.

§ 1². The recall must be made in writing.

§ 1². An employment relationship with an employee recalled from his post is terminated in accordance with the principles determined in the provisions of this Part, unless special provisions provide otherwise.

§ 2. The recall is equivalent to the termination of an employment contract with notice. Within the period of notice, the employee has the right to remuneration in the amount to which he was entitled prior to the recall.

§ 3. If the recall is for the reasons referred to in Articles 52 or 53, it is deemed equivalent to the termination of an employment contract without notice.

Art. 71. Type of work of the recalled during the period of notice. At the request or with the consent of the employee, the employer may employ the employee in another position, corresponding to his professional qualifications, during the period of notice, and at the end of the period of notice may employ him under work and remuneration conditions agreed upon by the parties.

Art. 72. Recall during the protection period.

§ 1. If an employee is recalled during a justified absence from work, the period of notice begins after the end of the justified absence. However, if the justified absence exceeds the period referred to in Article 53 § 1 and 2, the authority that appointed the employee may terminate the employment relationship without notice.

§ 2. If a female employee is recalled while pregnant, the recalling authority must ensure that the employee is assigned other work corresponding to her professional qualifications, and at the same time, for a period equal to the period of notice the employee has the right to remuneration in the amount she was entitled to prior to the recall. If the employee does not consent to undertaking other work, the employment relationship is terminated at the end of a period equal to the period of notice starting on the date of proposing other work in writing.

§ 3. The provision of § 2 applies accordingly when recalling an employee who is within 2 years of acquiring the right to a retirement pension from the Social Insurance Fund.

§ 4. If the provisions of § 1² are violated, the employee has the right to appeal to the labour court.

Oddział 2. Employment relationship on the basis of an election.

Art. 73. Establishment and termination of an employment relationship.

§ 1. An employment relationship is established on the basis of an election if the election involves an obligation to perform work as an employee.

§ 2. An employment relationship on the basis of an election is terminated upon the expiry of the mandate.

Art. 74. Return to the previous employer. An employee who is on unpaid leave in connection with an election, has the right to return to work with the employer who employed him on the date of the election, in a post equivalent in terms of remuneration to the one previously occupied, provided that the employee reports his return to work within 7 days from the termination of the employment relationship based on an election. A failure to meet that condition leads to the expiry of the employment relationship, unless the failure is beyond the employee control.

Art. 75. Severance allowance. An employee who has not taken unpaid leave in relation to being elected is entitled to severance allowance amounting to one month's remuneration.

Oddział 3. Employment relationship on the basis of a nomination.

Art. 76. Establishment of an employment relationship. An employment relationship is established on the basis of a nomination in the cases specified under separate provisions of law.

Oddział 4. Employment relationship on the basis of a co-operative employment contract.

Art. 77. Establishment of an employment relationship.

§ 1. An employment relationship is established between a labour co-operative and its member on the basis of a co-operative employment contract.

§ 2. An employment relationship on the basis of a co-operative employment contract is governed by the Act on Co-operatives, and, unless regulated otherwise by that law, by the provisions of the Labour Code, accordingly.

Dział Trzeci. Remuneration for Work and Other Benefits.

Rozdział I. Determining remuneration for work and other work-related benefits.

Art. 77¹. Collective labour agreements. The conditions of remuneration for work and of granting other work-related benefits are determined in collective labour agreements, in accordance with the provisions of Section eleven, subject to the provisions of Articles 77²-77⁵.

Art. 77². Remuneration regulations.

§ 1. An employer with at least 20 employees who are not covered by an enterprise collective labour agreement, or a multi-enterprise collective labour agreement corresponding to the requirements specified in § 3, must determine the conditions of remuneration for work in the remuneration regulations.

§ 2. An employer may also determine other work-related benefits, along with the principles of granting them, in the remuneration regulations referred to in § 1.

§ 3. The remuneration regulations are valid for as long as the employees are not covered by an enterprise collective labour agreement or a multi-enterprise collective labour agreement determining the conditions of remuneration for work and of granting other work-related benefits in a scope and in a manner allowing for individual conditions of employment contracts to be specified.

§ 4. The remuneration regulations are determined by the employer. If there is an enterprise trade union at the employer, then the employer must agree the remuneration regulations with the trade union.

§ 5. The provisions of Article 239 § 3, Article 241¹² § 2, Article 241¹³ and Article 241²⁶ § 2 apply to the remuneration regulations accordingly.

§ 6. The remuneration regulations come into force within two weeks of the date on which they are communicated to the employees in accordance with the standard method used by the employer.

Art. 77³. Conditions of remuneration in the State budget sector.

§ 1. The conditions of remuneration for work and of granting other work-related benefits for employees employed in entities of the State budget sector, provided the employees are not covered by a collective labour agreement, are specified in an executive regulation issued by the minister for labour issues at the request of a competent minister - to the extent not reserved by other laws as the competence of other authorities.

§ 2. From the date on which a collective labour agreement comes into force, the provisions of the executive regulation referred to in § 1 will not apply to the employees of entities of the State budget sector covered by the collective labour agreement.

§ 3. The executive regulation referred to in § 1 should, in particular, specify the conditions for establishing and paying:

1) the employees basic remuneration;

2) components of remuneration other than the basic remuneration, where justified in particular due to the specific characteristics or conditions of the work performed, professional qualifications of employees, though if the amount of any component of remuneration that varies with the length of the employment period is fixed, that component may not exceed 20 per cent of the basic remuneration;

3) other work-related benefits, including any that may vary with the length of the employee's work; in particular this may apply to a jubilee award and a one-time cash severance allowance due to an employee whose employment relationship has been terminated in relation to having qualified for a disability or retirement pension.

Art. 77⁴ (deleted)

Art. 77⁵. Business trip.

§ 1. An employee who, at the employer's request, performs an official task outside the area where the employer has its registered office, or outside the regular workplace, is entitled to the reimbursement of any expenses incurred in relation to the business trip.

§ 2. The minister for labour issues will issue an executive regulation determining the amount and rules of assessing amounts to which an employee employed in a State or a self-government entity of the budget sector is entitled in respect of business trips at home and abroad. In particular, the regulation will state the amounts of the daily allowance, with regard to the duration of a trip, and in the case of a trip abroad - the currency in which the daily allowance is established and the limit for accommodation in respective countries, as well as the conditions for the reimbursement of costs of travel, accommodation and other expenses.

§ 3. The conditions for the payment of amounts in respect of business trips by an employee employed at an employer other than the one referred to in § 2 are determined in a collective labour agreement, in the remuneration regulations or in the employment contract, if the employer is not covered by a collective labour agreement or is not obliged to establish remuneration regulations.

§ 4. The provisions of a collective labour agreement, remuneration regulations or the employment contract may not determine a daily allowance at home or abroad in an amount lower than the daily allowance at home specified for the employee referred to in § 2.

§ 5. If the collective labour agreement, the remuneration regulations or the employment contract do not contain the provisions referred to in § 3, the employee will be entitled to the respective amounts covering the costs of a business trip in accordance with the provisions referred to in § 2.

Rozdział Ia. Remuneration for work.

Art. 78. Criteria for calculating the amount of remuneration.

§ 1. Remuneration for work is calculated in such a way that it corresponds in particular to the type of the work performed and the qualifications required to perform it, as well as reflecting the amount and the quality of the work performed.

§ 2. For the purpose of calculating the remuneration for work, the amount and principles of allocating to employees the rates of remuneration for a given type of work or for work in a given position will be established in the manner provided for in Articles 77¹-77³, as along with other additional components of remuneration if they have been provided for on the account of performing a specified job.

Art. 79 (deleted)

Art. 80. Remuneration for work performed. Remuneration is due for the work actually performed. An employee retains the right to remuneration for the time of not performing work only when the provisions of labour law provide for it.

Art. 81. Readiness for work; work stoppage.

§ 1. If an employee is ready to perform work but is unable to, due to reasons concerning the employer, the employee is entitled to remuneration for the time of not working resulting from his personal remuneration grade setting out an hourly or monthly rate, and if this component of remuneration was not established when setting the remuneration conditions - 60 per cent of the employee's remuneration. In any case, this remuneration may not be lower than the amount of the minimum remuneration for work, as set out under separate provisions.

§ 2. The remuneration determined in § 1 is due to an employee for the duration of a work stoppage for which the employee is not responsible. If a work stoppage is the responsibility of the employee, the employee is not entitled to the remuneration.

§ 3. The employer may, for the duration of a work stoppage, assign the employee to perform other appropriate work, for which the employee is entitled to the remuneration provided for this type of work, though not lower than the remuneration determined in accordance with § 1. If the work stoppage is the responsibility of the employee, the employee is only entitled to the remuneration provided for the work performed.

§ 4. Remuneration for the duration of a work stoppage caused by weather conditions is due to an employee employed to perform works dependent on these conditions, as long as provided for in the provisions of labour law. In the case of assigning the employee with other work for the duration of a work stoppage, the employee is entitled to the remuneration provided for the work performed, unless the provisions of labour law provide for the application of the principles determined in § 3.

Art. 82. Defective performance of work.

§ 1. If products have been defectively manufactured or services have been defectively provided through the fault of an employee, the employee is not entitled to remuneration. If, as a result of an inadequate performance of work through the fault of the employee, the quality of a product or a service has deteriorated, the remuneration is reduced accordingly.

§ 2. If the defect in the product or the service is remedied by the employee, the employee is entitled to remuneration corresponding to the quality of the product or the service, though no remuneration is due for the time of work spent on remedying the defect.

Art. 83. Work standards.

§ 1. Work standards measuring work expenditure, effectiveness and quality, may be applied if this is justified by the type of work

§ 2. Work standards are established in accordance with the achieved level of technology and work organisation. Work standards may be changed in order to correspond to technical and organisational improvements ensuring a higher level of work efficiency.

§ 3. Exceeding work standards does not constitute grounds for changing them, if it is a result of a higher personal work contribution of an employee or his professional efficiency.

§ 4. Employees must be notified about a change to a work standard at least two weeks prior to the introduction of this standard.

Rozdział II. Protection of remuneration for work.

Art. 84. Prohibition against renouncing the right to remuneration. An employee may not renounce the right to remuneration or transfer the right to another person.

Art. 85. Day of payment of remuneration.

§ 1. Remuneration for work must be paid at least once a month, on a fixed date determined in advance.

§ 2. Remuneration for work paid monthly is paid in arrears, immediately after the full amount has been determined, but not later than within the first 10 days of the following calendar month.

§ 3. If the set day for paying remuneration for work is a day off, the remuneration is paid on the preceding day.

§ 4. Components of remuneration for work due to an employee for periods longer than one month, are paid in arrears on the dates specified in the provisions of labour law.

§ 5. An employer, at the request of an employee, is obliged to provide the employee with documents on the basis of which the remuneration has been calculated.

Art. 86. Form and procedure for paying remuneration.

§ 1. An employer is obliged to pay remuneration in a place, on a date and at the times specified in the work regulations or in other provisions of labour law.

§ 2. The payment of remuneration must be made in cash; partial payment of remuneration in non-cash form is allowed only when allowed by the statutory provisions of labour law or a collective labour agreement.

§ 3. The duty to pay remuneration may be performed in a way other than by tendering payment to an employee, as long as allowed under a collective labour agreement, or if an employee gives its prior consent in writing.

Art. 87. Deductions from remuneration.

§ 1. Only the following dues may be deducted from remuneration for work, after the prior deduction of social security contributions and income tax contributions:

- 1) sums of money executed on the basis of enforcement clauses to make maintenance payments,
- 2) sums of money executed on the basis of enforcement clauses to cover dues other than maintenance payments,
- 3) advance payments granted to employees,
- 4) fines provided for in Article 108.

§ 2. Deductions are made in the order determined in § 1.

§ 3. Deductions are made within the following limits:

- 1) in the case of maintenance payments - up to three-fifths of the remuneration,
- 2) in the case of other dues or the deductions of advance payments - up to half of the remuneration.

§ 4. The deductions referred to in § 1 points 2 and 3 will not amount, in total, to more than half of the remuneration, and, together with the deductions referred to in § 1 point 1 - three-fifths of the remuneration.

Regardless of the above deductions, fines are deducted within the limits specified in Article 108.

§ 5. Awards from an enterprise award fund, additional annual remuneration or amounts due to employees for the participation in profit or a balance surplus are liable to execution to make maintenance payments up to the full amount.

§ 6. (*abrogated*)

§ 7. Amounts paid out in a previous payment period for periods of absence for which the employee does not retain the right to remuneration are deducted from the remuneration for work in full.

§ 8. The deductions of dues from the remuneration of an employee in the month in which the components of remuneration are paid out for periods longer than one month are made from the total amount of remuneration under consideration of such components.

Art. 87¹. Amounts exempt from deductions.

§ 1. The amount of remuneration for work that is exempt from deductions is the sum of:

- 1) the minimum remuneration for work, established on the basis of separate provisions, due to an employee employed full time, after deducting social insurance contributions and income tax contributions - by deducting sums that are subject to execution under enforcement clauses for the coverage of dues other than maintenance payments,
- 2) 75 per cent of remuneration referred to in point 1 - by deducting money contributions granted to an employee,
- 3) 90 per cent of the remuneration determined in point 1 - by deducting fines provided for in Article 108.

§ 2. If an employee is employed part time, the sums determined in § 1 are reduced in proportion to the length of working time.

Art. 88. Deductions to make maintenance payments.

§ 1. While observing the principles determined in Article 87, deductions to make maintenance payments can also be made by an employer without execution proceedings, except for the cases when:

- 1) maintenance payments are to be deducted for the benefit of several creditors, and the total sum that may be deducted is not sufficient to cover all maintenance dues in full,
- 2) the remuneration for work has been seized through court or administrative execution proceedings.

§ 2. The deductions referred to in § 1 are made by an employer at the request of a creditor under an enforcement clause presented by him.

Art. 89 (*deleted*)

Art. 90. Reference. In the cases not regulated in Articles 87 and 88, the provisions of the Code of Civil Proceedings apply accordingly, as well as the provisions on the administrative execution of cash benefits.

Art. 91. Deductions with the consent of an employee.

§ 1. Dues other than those referred to in Article 87 § 1 and 7 may be deducted from the remuneration of an employee only with his consent expressed in writing.

§ 2. In the cases determined in § 1, the following amounts of remuneration for work are exempt from the deductions:

- 1) the amount determined in Article 87¹ § 1 point 1 in deducting dues for the benefit of an employer,
- 2) 80 per cent of the amount determined in Article 87¹ § 1 point 1 in deducting dues other than those determined in point 1.

Rozdział III. Benefits due during a temporary incapacity to work.

Art. 92. Remuneration for the period of an incapacity to work.

§ 1. While an employee is unable to work because of:

- 1) illness or isolation due to a contagious disease lasting in total up to 33 days in a calendar year, and in the case of an employee who has reached 50 years of age lasting in total up to 14 days in a calendar year, the employee retains the right to 80 per cent of his remuneration, unless the provisions of labour law binding at a given employer provide for a higher remuneration in this regard,
- 2) an accident on the way to work or from work, or illness during pregnancy within the period specified in point 1 an employee retains the right to 100 per cent of his remuneration,
- 3) necessary medical examinations provided for candidates for donors of cells, tissues and organs, or undergoing an operation of gathering cells, tissues and organs within the period of time determined in point 1 the employee retains the right to 100 per cent of the remuneration.

§ 1¹. (*abrogated*)

§ 2. The remuneration referred to in § 1 is calculated in accordance with the principles for determining the base for sickness benefit and is paid for each day of an incapacity to work, not excluding days off.

§ 3. The remuneration referred to in § 1:

- 1) is not decreased if the base for sickness benefit is reduced,
- 2) is not due if an employee does not have the right to sickness benefit.

§ 4. For the period of an incapacity to work, as referred to in § 1, lasting in total longer than 33 days in a calendar year, and in the case of an employee who has reached 50 years of age lasting in total longer than 14 days in a calendar year, the employee is entitled to sickness benefit under the principles determined in separate provisions.

§ 5. The provisions of § 1 point 1 and § 4 relating to an employee who has reached 50 years of age, apply to an incapacity of an employee to work falling after the calendar year in which the employee reached 50 years of age.

Rozdział IIIa. Disability or retirement gratuity.

Art. 92¹. Criteria for a claim; amount.

§ 1. An employee who meets the criteria for a disability or retirement pension, and whose employment relationship is terminated due to having qualified for a disability or retirement pension, is entitled to a cash severance allowance amounting to one month's remuneration.

§ 2. An employee who has collected the allowance does not have the right to claim it again.

Rozdział IV. Bereavement payment.

Art. 93. Criteria for a claim; amount; beneficiaries.

§ 1. If an employee dies during an employment relationship or while collecting benefits due to an incapacity to work in respect of illness after the termination of the employment relationship, the family is entitled to a bereavement payment from the employer.

§ 2. The amount of the payment referred to in § 1 depends on the employment period of the employee with a given employer and amounts to:

- 1) one month's remuneration if the employee was employed for less than ten years,
- 2) three months remuneration if the employee was employed for at least ten years,
- 3) six months remuneration if the employee was employed for at least fifteen years.

§ 3. The provision of Article 36 § 1¹ applies accordingly.

§ 4. The bereavement payment is due to the following members of the employees family:

- 1) spouse,
- 2) other members of the family meeting the conditions required to acquire a family pension in the meaning of the provisions on retirement and pensions from the Social Insurance Fund.

§ 5. The bereavement payment is divided into equal parts between all entitled members of the family.

§ 6. If, after the death of an employee, there is only one member of the family entitled to the bereavement payment, then the payment will amount to half of the respective amount referred to in § 2.

§ 7. The bereavement payment is not due to members of the family referred to in § 4 if an employer has insured an employee for life, and the compensation paid out by an insurance company is not lower than the bereavement payment due in accordance with § 2 and 6. If the compensation is lower than the bereavement payment, the employer is obliged to pay the family the difference between the amounts.

Dział Czwarty. Duties of the Employer and the Employee.

Rozdział I. Duties of the employer.

Art. 94. Duties of the employer. The employer is obliged in particular to:

- 1) make employees starting work familiar with the scope of their duties, the manner of performing work on particular positions and their basic rights,
- 2) organise work in a manner ensuring the effective use of working time, as well as achieving high efficiency and appropriate quality of work through using the employees abilities and qualifications,
 - 2a) organise work in a manner ensuring the reduction of strenuousness of work, in particular for monotonous work and work at a fixed pace,
 - 2b) act against discrimination in employment, in particular in respect of sex, age, disability, race, religion, nationality, political belief, trade union membership, ethnic origin, creed, sexual orientation, as well as on grounds of employment for a definite or indefinite period of time, or in full or part-time,
- 3) *(deleted)*,
- 4) ensure healthy and safe working conditions for employees, and to provide systematic employee training on health and safety at work,
- 5) pay remuneration timely and correctly,
- 6) enable employees to improve their professional qualifications,
- 7) create conditions favourable for employees starting work after graduating from a vocational school or a school of higher education to adapt to an appropriate performance of work,
- 8) satisfy, through the means available, the social needs of employees,
- 9) apply objective and just criteria of evaluating employees and the effects of their work,
- 9a) conduct documentation in matters connected with an employment relationship, as well as personal files of employees,

9b) keep records in matters involving an employment relationship, as well as personal files of employees, under conditions not threatened by damage or destruction,

10) influence the establishment of principles of community co-existence in the work establishment.

Art. 94¹. Duty to ensure access to the provisions of law. The employer must provide employees with the contents of provisions concerning equal treatment in employment in the form of written information announced in the work establishment, or must ensure that employees have access to these provisions in other standard method used by the employer.

Art. 94². Information. The employer must inform employees, in the standard method used by the employer, about the possibility of full-time or part-time employment, and in relation to employees employed for a definite period of time about vacant job positions.

Art. 94³. Workplace bullying.

§ 1. The employer is obliged to act against workplace bullying.

§ 2. Workplace bullying includes acts or behavior in relation to an employee or directed against an employee, with the effect of persistent and long-term harassment or intimidation of an employee, resulting in a decreased evaluation of his professional abilities, or which is aimed at or results in the humiliation or ridicule of the employee, or the isolation or elimination of the employee from the group of co-workers.

§ 3. An employee for whom workplace bullying has caused health problems, may claim compensation from the employer as a money equivalent for the damage sustained.

§ 4. An employee who terminates his employment contract as a result of workplace bullying has the right to claim compensation from the employer in an amount not lower than the minimum remuneration for work, as specified under separate provisions.

§ 5. The employee's statement on the termination of the employment contract must be made in writing, indicating the reason referred to in § 2 that justifies the termination of the contract.

Art. 95 (deleted)

Art. 96 (deleted)

Art. 97. Work certificate.

§ 1. Upon the termination or expiry of an employment relationship, the employer is obliged to issue a work certificate to the employee immediately. The issue of the work certificate may not depend on the previous settlement of accounts between the employee and the employer.

§ 1¹. In case the employee stays in employment at the same employer under an employment contract for a trial period, for a definite period of time or for the time of the completion of a specified task, the employer is obliged to issue a work certificate to the employee which would cover completed periods of employment under such contracts concluded within 24 months beginning from the conclusion of the first of such contracts.

§ 2. The work certificate provides information on the period and type of the work performed, job positions held, the manner of the termination or the circumstances of the expiry of the employment relationship as well as other information necessary to establish the employee's entitlements and social insurance entitlements. Furthermore, the work certificate should contain a note on withholding any remuneration for work, in the meaning provided for by the provisions on execution proceedings. Information on the amount and components of remuneration, as well as the qualifications achieved, should also be placed in the work certificate at the demand of the employee.

§ 2¹. The employee is entitled, within 7 days from receiving the work certificate, to submit to the employer a request to correct the work certificate. If the request is refused, the employee is entitled, within 7 days from learning about the refusal to correct the work certificate, to file a request with the labour court to correct the work certificate.

§ 3. If a labour court decides that the termination of an employment contract without notice through the fault of the employee was in violation of the provisions of law on the termination of employment contracts in this manner, the employer must include a note in the work certificate that the employment contract was terminated with notice from the employer.

§ 4. The Minister of Labour and Social Policy will specify, in an executive regulation, the detailed wording of the work certificate, as well as the way and manner of its issue and correction.

§ 1². The work certificate will be issued on the day of the elapse of the time period referred to in § 1¹. However, if the termination or the expiry of an employment contract concluded before the elapse of 24 months falls after the day of the elapse of such period of time, the work certificate will be issued on the day of the termination or expiry of such employment contract.

§ 1³. The employee referred to in § 1¹ may at any time demand to be issued a work certificate in connection with the termination or the expiry of each employment contract enumerated in this provision or a work certificate concerning a joint period of employment under such employment contracts falling before the filing of the task on the issue of the work certificate. The employer is obliged to issue the work certificate within 7 days from the day of filing a written application by the employee.

Art. 98 (deleted)

Art. 99. Claims of an employee for compensation.

§ 1. An employee has the right to claim for the redress of damage caused to him through a failure of the employer to issue a work certificate in due time, or a failure to issue an accurate work certificate.

§ 2. The compensation referred to in § 1 amounts to the remuneration for the period of being out of work for this reason, but for not longer than 6 weeks.

§ 3. (deleted)

§ 4. The court decision on compensation in respect of the issue of an inaccurate work certificate constitutes the grounds for amending this work certificate.

Rozdział II. Duties of an employee.

Art. 100. Duties of an employee.

§ 1. An employee is obliged to perform work conscientiously and carefully, and to comply with the instructions of superiors related to the work, as long as the instructions are not contrary to the provisions of law or the employment contract.

§ 2. An employee is obliged in particular to:

- 1) comply with working time set out in the work establishment,
- 2) comply with work regulations and the rules of order set out in the work establishment,
- 3) comply with the provisions of law as well as the principles of health and safety at work, and provisions on fire protection,
- 4) respect the interest of the work establishment, protect its property and keep confidential any information that could cause damage to the employer if disclosed,
- 5) respect confidentiality determined in separate provisions,
- 6) respect the principles of community co-existence in the work establishment.

Art. 101 (*deleted*)

Rozdział IIa. Prohibition on competition.

Art. 101¹. Prohibition on competition during an employment relationship.

§ 1. To the extent determined in a separate agreement, an employee may not perform activity that is competitive towards an employer, or perform work, under an employment relationship or any other basis, for the benefit of an entity conducting such activity (prohibition on competition).

§ 2. An employer who suffers damage because an employee has violated the prohibition on competition provided for in the agreement, may claim compensation for the damage from the employee in accordance with the principles determined in the provisions of Chapter I of Section Five.

Art. 101². Prohibition on competition after the expiry of an employment relationship.

§ 1. The provision of Article 101¹ § 1 applies accordingly when an employer and an employee with access to particularly important information, the disclosure of which could expose the employer to damage, conclude a contract prohibiting competition after the expiry of an employment relationship. The contract must include provisions on the period of prohibition of competition, as well as the amount of compensation due to the employee from the employer, subject to provisions of § 2 and 3.

§ 2. The prohibition on competition referred to in § 1 becomes invalid prior to the expiry of the period for which the contract provided for in this provision has been concluded if the reasons justifying the prohibition cease to exist, or the employer does not pay compensation.

§ 3. The compensation referred to in § 1 cannot be lower than 25 per cent of the remuneration received by the employer before the expiry of the employment relationship for the period corresponding to the period of the prohibition on competition; the compensation may be paid in monthly instalments. In the event of a dispute, the labour court decides on compensation.

Art. 101³. **Form of contract.** Contracts referred to in Article 101¹ § 1 and in Article 101² § 1 must be made in writing or will be invalid.

Art. 101⁴. **Relation to separate provisions.** The provisions of this Chapter do not violate any prohibition on competition provided for in separate provisions.

Rozdział III. Professional qualifications of employees.

Art. 102. **Establishment of required professional qualifications.** Professional qualifications of employees required to perform a specified type of work or in a specified job position may be established in the provisions of labour law provided for in Articles 77¹-77³, as far as they are not regulated by special provisions.

Art. 103 (*abrogated*)

Art. 103¹. Improvement of professional qualifications.

§ 1. Improving professional qualifications means acquiring and implementing the knowledge and skills by the employee, by the employer's initiative or by his consent.

§ 2. The employee improving his professional qualifications is entitled to:

- 1) training leave,
- 2) release from the whole or part of working day for the time needed to come on time to obligatory classes as well as for the time of their duration.

§ 3. The employee retains the right for remuneration for the time of training leave as well as for the time of the release from the whole or part of working day.

Art. 103². Paid training leave.

§ 1. The employee is entitled to the training leave referred to in Article 103¹ § 2 point 1 in the amount:

- 1) 6 days - for an employee taking external exams,
- 2) 6 days - for an employee taking secondary school final exam,
- 3) 6 days - for an employee taking an exam confirming professional qualifications,
- 4) 21 days within the last year of the studies - for the preparation of diploma thesis as well as for the preparation and taking a final exam.

§ 2. Training leave is granted on the days which are working days for the employee, according to the schedule of working time binding the employee.

Art. 103³. Additional benefits. The employer may grant additional benefits to an employee improving his professional qualifications, in particular he may cover fees for education, travel, handbooks and accommodation.

Art. 103⁴. Agreement.

§ 1. The employer concludes with an employee improving his professional qualifications an agreement determining bilateral rights and obligations of the parties. The agreement is concluded in writing.

§ 2. The agreement referred to in § 1 above cannot include provisions less favourable for the employee than the provisions of this Chapter.

§ 3. There is no obligation to conclude an agreement referred to in § 1 above provided the employer does not intend to oblige an employee to stay in employment after completing the improvement of professional qualifications.

Art. 103⁵. Return of costs. An employee improving professional qualifications:

1) who will not start improving professional qualifications without justifiable reasons or who will disrupt the process of improving these qualifications,

2) with whom the employer will terminate an employment relationship without notice, through the fault of an employee, in the period of improving professional qualifications or after its completion, within the time period determined in the agreement referred to in Article 103⁴, not longer than 3 years,

3) who, within the time period determined in point 2, will terminate an employment relationship with notice, with the exception of the notice of an employment agreement for the reasons enumerated in Article 94³,

4) who, within the time period determined in point 2, will terminate an employment relationship without notice on the basis of Article 55 or Article 94³, despite the lack of the reasons determined in the mentioned provisions - is obliged to return the costs covered by the employer for this aim on account of additional benefits, in the amount proportional to the employment period after completing the improving of professional qualifications or to the employment period in the course of their improvement.

Art. 103⁶. Other cases of implementing knowledge and skills, agreement. An employee who acquires or implements the knowledge and skills according to the principles other than the ones determined in Article 103¹-103⁵ can be granted:

1) release from the whole or part of working day without retaining the right to remuneration,

2) unpaid leave - in the amount set up in an agreement concluded between an employer and an employee.

Rozdział IV. Work regulations.

Art. 104. Work regulations; duty to introduce.

§ 1. Work regulations set out the organisation and order in the work process, along with the related rights and duties of an employer and employees.

§ 2. Work regulations are not introduced if, to the extent provided for in § 1, the provisions of a collective labour agreement apply, or when an employer employs less than 20 employees.

Art. 104¹. Contents of work regulations.

§ 1. Work regulations determining the rights and duties of an employer and employees related to order in the work establishment set out in particular:

1) work organisation, conditions for staying on the premises of the work establishment during working hours and afterwards, equipping employees with tools and materials, as well as working clothing and shoes, and with means of individual protection and personal hygiene,

2) systems and schedules of working time, as well as the applicable calculation periods used for working time,

3) *(deleted)*

4) night-time hours,

5) date, place, time and frequency of payment of remuneration,

6) lists of work prohibited to young employees and women,

7) types of work and a list of positions that can be performed by young employees for the purpose of vocational training,

7a) list of light work allowed for young employees employed for the purpose other than vocational training,

8) obligations concerning health and safety at work and fire protection, including the procedure for informing employees about professional risk related to the work performed,

9) the method of confirming the arrival and presence of employees at work, as well as the procedure for justifying an absence from work, used at a given employer.

§ 2. Work regulations should include information on penalties applicable in accordance with Article 108 for a breach of order by employees.

Art. 104². Establishing the contents of the regulations.

§ 1. Work regulations are established in an agreement with an enterprise trade union.

§ 2. If the work regulations are not agreed upon with the enterprise trade union within a period specified by the parties, or if there is no enterprise trade union at the employer, then the work regulations are established by the employer.

Art. 104³. Coming into effect of work regulations.

§ 1. Work regulations come into effect 2 weeks after they are announced to employees in the standard method adopted at the employer.

§ 2. The employer must ensure that an employee is familiar with the contents of the work regulations before the employee starts his work.

Art. 104⁴ (abrogated)

Rozdział V. Rewards and distinctions.

Art. 105. Criteria and procedure for granting. Employees who contribute substantially to the performance of the tasks of the work establishment, by the exemplary performance of their duties, initiatives shown at work and improvements to their effectiveness and quality, may be granted rewards and distinctions. A copy of the notification in relation to granting a reward or a distinction is entered in the employee's personal file.

Art. 106 (*deleted*)

Art. 107 (*abrogated*)

Rozdział VI. Employees - liability for maintaining order.

Art. 108. Catalogue of penalties.

§ 1. If an employee does not observe the organisation and order established in the process of work, the provisions on health and safety at work, the provisions on fire protection, or the procedure of confirming the arrival and the presence of employees at work, including the procedure of justifying an absence from work, then the employer may apply the following penalties:

- 1) an admonition,
- 2) a reprimand.

§ 2. If an employee does not observe the provisions on health and safety at work or the provisions on fire protection, leaves work without justification, appears at work drunk or drinks alcohol at work then an employer can also apply a fine.

§ 3. The fine for each offence, or for each day of an unjustified absence, may not be higher than one day's remuneration of the employee, and in total the fines may not exceed one tenth of the remuneration due to be paid to an employee, after the deductions referred to in Article 87 § 1 points 1-3.

§ 4. Fines are allocated to improving conditions of health and safety at work.

Art. 109. Time limitation; duty to hear an employee.

§ 1. A penalty may not be applied more than two weeks after the employer's learning about the breach of the employee's duty, and in any case not more than three months from when the breach took place.

§ 2. The penalty may be applied only after the employee has been given a hearing.

§ 3. If the employee is absent from work and cannot be heard, the two-week period referred to in § 1 does not run, and if it has started to run it will be suspended until the employee reappears at work.

Art. 110. Notification of an employee on the penalty applied. The employer must inform the employee in writing about the penalty applied, determining the manner in which the employee has violated his duties and the date of the violation. The employer must inform the employee about the right to object, and the date for making an appeal. A copy of the notification is filed in the employee's personal file.

Art. 111. Criteria taken into account when applying a penalty. When applying a penalty, the type of violation of the employee's duties, the degree to which the employee is at fault and his previous record at work are particularly taken into account.

Art. 112. Objection of the penalised employee.

§ 1. If a penalty is applied in violation of the provisions of law, the employee may object within 7 days of receiving the notification about the penalty on him. The employer decides whether to accept or reject the objection after hearing the opinion of the enterprise trade union representing the employee. If the objection is not rejected within 14 days from when it is filed, the objection is considered as having been sustained.

§ 2. An employee who has filed an objection may, within 14 days from the notification about the objection being rejected, apply to the labour court to revoke the penalty applied towards him.

§ 3. If an objection concerning a fine is sustained or the fine is revoked by the labour court, the employer is obliged to return the equivalent of the fine to the employee.

Art. 113. Removing the record of a penalty.

§ 1. A penalty is treated as of no effect, and the copy of the notification concerning the penalty is removed from the employee's personal file after one year of impeccable work. The employer may, on his own initiative or at the request of an enterprise trade union representing the employee, consider the penalty to be of no effect before the end of that period.

§ 2. The provision of § 1 sentence 1 applies accordingly if the employer sustains an objection or the labour court issues a decision revoking the penalty.

Art. 113¹ (*deleted*)

Dział Pi ty. Financial Liability of Employees.

Rozdział I. An employee's liability for a damage caused to an employer.

Art. 114. Illegality; fault. An employee who, through his fault, causes damage to the employer as a result of not performing his or her duties, or performing them improperly, is financially liable in accordance with the principles specified in the provisions of this Chapter.

Art. 115. Damage; causal connection. An employee is liable for damage to the extent of a material loss sustained by the employer, and only for the normal consequences of the acts or omission that caused the damage.

Art. 116. Burden of proof. The employer must prove the circumstances substantiating the liability of the employee, and the estimate of the damage sustained.

Art. 117. Liability exemption.

§ 1. An employee is not liable for the damage to the extent that the employer or another person has contributed to or worsened the damage.

§ 2. An employee does not bear any risk related to the activity of the employer, and in particular, he bears no liability for damage caused by acts within the limits of admissible risk.

§ 3. *(deleted)*

Art. 118. Damage by several employees. If damage is caused by several employees, each of them is liable for part of the damage to the extent they contributed to it and the extent that they were at fault. If it is not possible to determine the extent of their fault and the contribution of respective employees to the damage, they are equally liable.

Art. 119. Amount of compensation. Compensation is assessed on the amount of the damage caused, but cannot exceed three months remuneration due to the employee on the date the damage was caused.

Art. 120. Damage of third party.

§ 1. When damage is caused by an employee to a third person through performing his work duties, only the employer is obliged to compensate for the damage.

§ 2. Under the provisions of this Chapter, an employee bears liability towards the employer for compensation in connection with damage incurred by a third party.

Art. 121. Agreement; reduction of compensation by a court.

§ 1. Where the compensation for damage is based on an agreement between an employer and an employee, the amount of compensation may be reduced when considering all the circumstances of the case, and in particular the extent to which the employee is at fault, and his attitude to his duties as an employee.

§ 2. When considering the circumstances referred to in § 1, the amount of compensation may also be reduced by the labour court; this also applies when compensation for damage is based on a court agreement.

Art. 121¹. Execution of an agreement.

§ 1. If an employee fails to perform the agreement, it is subject to execution under the procedure provided for in the provisions of the Code of Civil Proceedings, after an enforcement clause has been issued by the labour court.

§ 2. The labour court will refuse to issue an enforcement clause to an agreement, if the court finds that it is contrary to the law or the principles of community co-existence.

Art. 122. Compensation for intentionally caused damage. If an employee has intentionally caused damage, he is obliged to compensate for it in full.

Art. 123 *(deleted)*

Rozdział II. Liability for property assigned to an employee.

Art. 124. Property assigned with a duty to return or account for.

§ 1. An employee who has been assigned a duty to return or account for:

- 1) money, securities or valuables,
- 2) tools, instruments or similar objects, as well as means of individual protection and working clothing and shoes, is fully liable for any damage caused to these items.

§ 2. The employee is also fully liable for any damage caused to property other than those referred to in § 1, assigned to him with the duty to return or account for them.

§ 3. The employee may be released from the liability referred to in § 1 and 2 if he proves that he was not responsible for the damage, and in particular, as a result of a failure of the employer to provide conditions ensuring the assigned property items were protected.

Art. 125. Agreement on financial co-liability.

§ 1. In accordance with the principles determined in Article 124, employees may be subject to joint financial liability for the items they were assigned to account for. The basis for the joint assignment of items is an agreement on financial co-liability, concluded in writing between the employees and the employer.

§ 2. Employees who bear joint financial liability are liable in proportions specified in the agreement. However, where it is determined that part or all of the damage was caused by only some of the employees, it is only those employees who actually caused the damage who are liable respectively for part or all of the damage.

Art. 126. Delegation.

§ 1. The Council of Ministers will determine, in an executive regulation, the scope and detailed principles of applying the provisions of Article 125, as well as the procedure for the joint assignment of such items.

§ 2. The Council of Ministers, in an executive regulation, may determine the conditions of liability for damage to the property referred to in Article 124 § 2 and in Article 125:

- 1) in a limited amount, as determined by that executive regulation,
- 2) under the principles provided for in Articles 114¹116 and 118.

Art. 127. Reference. The provisions of Articles 117, 121, 121¹ and 122 apply accordingly to the liability determined in Articles 124¹126.

Dział Szósty. Working Time.

Rozdział I. General provisions.

Art. 128. Definitions.

§ 1. Working time is the time when the employee remains at the disposal of the employer in a work establishment, or in any other place designated as the place of performing work.

§ 2. Whenever the provisions of this Section refer to:

1) shift work - it means the performance of work in accordance with the applicable working time schedule providing for the change of the times of performing work by respective employees upon the expiry of a specified number of hours, days or weeks,

2) employees managing the work establishment in the name of the employer - it means the employees who individually manage a work establishment, as well as their deputies or employees who are members of a collective body managing the work establishment, and chief accountants.

§ 3. For the purposes of calculating an employee's working time:

1) a 24-hour period means - 24 successive hours, beginning when the employee starts work in accordance with the binding working time schedule,

2) a week means - 7 successive calendar days, beginning with the first day of the calculation period.

Rozdział II. Standards and general length of working time.

Art. 129. Maximum length.

§ 1. Working time may not exceed 8 hours in a 24-hour period and an average of 40 hours in an average five-day working week in a applicable calculation period not exceeding 4 months, subject to § 2 and Articles 135-138, 143 and 144.

§ 2. In sectors concerning agriculture and animal husbandry, as well as guarding property or protecting people, a calculation period not exceeding 6 months may be introduced, and where it is additionally justified by uncommon organisational or technical conditions affecting the working process - a calculation period not exceeding 12 months. However, a prolonged calculation period may not be used in the working time systems referred to in Articles 135-138.

Art. 130. Calculation of the length of working time binding an employee.

§ 1. The working time during which an employee is bound within the applicable calculation period, established under Article 129 § 1, is calculated as follows:

1) by multiplying 40 hours by the number of weeks falling within the calculation period, and then

2) by adding to the resulting number of hours the product of 8 hours and the number of days between Monday and Friday remaining until the end of the calculation period.

§ 2. Each public holiday during the calculation period that falls on a day other than Sunday reduces the length of working time by 8 hours.

§ 3. The employee's working time within the calculation period, established in accordance with Article 129 § 1, is reduced within this period by the number of hours of a justified absence from work that would have been worked if not for this absence, in accordance with the applicable calculation period.

§ 2¹. If in accordance with the applicable schedule of working time public holiday falls on a day off resulting from a schedule of working time in an average five-day working week it does not decrease the scope of working time.

Art. 131. Maximum limit of the total weekly working time.

§ 1. Weekly working time, together with overtime hours, must not exceed an average of 48 hours in the applicable calculation period.

§ 2. The limitation provided for in § 1 does not apply to employees managing the work establishment in the name of an employer.

Rozdział III. Periods of rest.

Art. 132. Minimum uninterrupted rest in a 24-hour period.

§ 1. An employee is entitled to at least 11 hours of uninterrupted rest in each 24-hour period, subject to § 3 and Article 136 § 2 and Article 137.

§ 2. The provision of § 1 does not apply:

1) to employees managing the work establishment in the name of the employer,

2) when performing a rescue operation to protect human life or health, to protect property or the environment, or to repair a breakdown.

§ 3. In the cases referred to in § 2, the employee is entitled to an equivalent period of rest, within the calculation period.

Art. 133. Minimum uninterrupted weekly rest.

§ 1. An employee is entitled to at least 35 hours of uninterrupted rest every week, including at least 11 hours of uninterrupted rest in a 24-hour period.

§ 2. In the cases specified in Article 132 § 2, and in the event of a change in the working times of an employee relocating to another shift in accordance with the applicable working time system, the weekly uninterrupted rest may include a lower number of hours, though not be shorter than 24 hours.

§ 3. The rest period referred to in § 1 and 2 should fall on a Sunday. Sunday includes 24 successive hours beginning from 6 am on that day, unless another time has been agreed at that employer.

§ 4. When work on Sunday is allowed, the rest period referred to in § 1 and 2 may fall on a day other than a Sunday.

Art. 134. Break from work. If the employee's working time in a 24-hour period amounts to at least 6 hours, the employee has the right to a break from work lasting at least 15 minutes; such a break is counted into the working time.

Rozdział IV. Systems and schedules of working time.

Art. 135. Balanced working time.

§ 1. If justified by the type of work or its organisation, a balanced working time system may be used under which the working time in a 24-hour period may be extended by up to 12 hours within a calculation period not exceeding 1 month. The extended working time in a 24-hour period is balanced by a shorter working time in a 24-hour period on certain days, or with days off.

§ 2. In particularly justified cases, the calculation period referred to in § 1 may be extended up to 3 months.

§ 3. For work dependent on the season or on weather conditions, the calculation period referred to in § 1 may be extended up to 4 months.

Art. 136. Monitoring of equipment; on-call duty.

§ 1. In jobs consisting in monitoring equipment or connected with a partial on-call duty, the balanced working time system may be used, under which the working time in a 24-hour period may be extended by up to 16 hours, within a calculation period not exceeding 1 month.

§ 2. In the working time system referred to in § 1, the employee is entitled, directly after each period of performing work with an extended working time, to rest for the period equivalent to at least the number of the hours worked, regardless of the rest period under Article 133.

Art. 137. Guard; protection; rescue service. Under the balanced working time system, the working time in a 24-hour period may be extended up to 24 hours within a calculation period not exceeding one month for employees employed in guarding property or protecting people, as well as employees of enterprise fire brigades and enterprise rescue teams. The provisions of Article 135 § 2 and 3 as well as Article 136 § 2 apply accordingly.

Art. 138. Work in continuous activities.

§ 1. For work that, due to the production technology, cannot be discontinued (work in continuous activities), a working time system may be used under which the working time may be increased up to an average of 43 hours per week in a calculation period not exceeding 4 weeks, and on one day in certain weeks in this period, the working time in a 24-hour period may be increased up to 12 hours. For each hour of work over 8 hours in a 24-hour period on a day of performing work under the extended working time, the employee is entitled to a bonus to his remuneration referred to in Article 151 § 1 point 1.

§ 2. The provision of § 1 also applies if the work cannot be discontinued through a need to ensure continuous attendance to the needs of the public.

§ 3. In the cases referred to in § 1 and 2, the working time binding the employee within the applicable calculation period is counted as follows:

- 1) by multiplying 8 hours by the number of calendar days falling in the calculation period, except for Sundays, public holidays and days off resulting from the system of working time in an average five-day working week, and then;
- 2) adding to the result the number of hours that corresponds to the extended weekly length of working time at a given employer.

§ 4. The number of hours that corresponds to the extended weekly working time at a given employer cannot exceed 4 hours per week of the calculation period within which the working time is extended.

§ 5. The provisions of Article 130 § 2 sentence 2 and § 3 apply accordingly.

Art. 139. Interrupted working time.

§ 1. If justified by the type of work or its organisation, an interrupted working time may be applied in accordance with a predetermined working time schedule providing for no more than one break from work in a 24-hour period, lasting no longer than 5 hours. The break is not counted in the working time, but, for the period of the break, the employee is entitled to remuneration amounting to half of the remuneration due for a work stoppage.

§ 2. The system of interrupted working time does not apply to an employee covered by the working time system referred to in Articles 135, 138, 143 and 144.

§ 3. An interrupted working time system is introduced into a collective labour agreement, subject to § 4.

§ 4. At an employer who is an individual conducting agricultural or animal husbandry activity, and where there is no enterprise trade union, the interrupted working time system may be applied on the basis of an employment contract. An employee is entitled to remuneration for the break time referred to in § 1 if provided for in the employment contract.

Art. 140. Task-based working time. If justified by the type of work or its organisation, or by the place of performing work, a task-based working time system may be used. The employer, having consulted the employee, determines the time necessary to perform the assigned tasks, considering the working time resulting from the standards referred to in Article 129.

Art. 141. Break from work not counted in the working time.

§ 1. An employer can introduce one break from work, not exceeding 60 minutes, not counted in the working time, to be used to eat a meal or to handle personal matters.

§ 2. The break from work referred to in § 1 is introduced in a collective labour agreement or in work regulations, or in an employment contract if the employer is not covered by a collective labour agreement or is not obliged to set out work regulations.

Art. 142. Individual working time schedule. At the written request of an employee, the employer may set out an individual schedule of his working time within the working time system covering the employee.

Art. 143. Shortened working week system. At the written request of an employee, a shortened working week system may be applied. That system allows the employee to work for less than five days per week, while at the same time extending the daily working time, but not more than up to 12 hours, within a calculation period not exceeding 1 month.

Art. 144. System of weekend work. At the written request of an employee, a working time system may be used where work is performed only on Fridays, Saturdays, Sundays and on public holidays. That system allows for the daily working time to be extended up to 12 hours within the calculation period not exceeding 1 month.

Art. 145. Reduced working time.

§ 1. The working time may be reduced below the standards referred to in Article 129 § 1 for employees employed in conditions that are particularly strenuous or harmful to health by providing for breaks from work counted into the working time, or by lowering these standards; for monotonous work or work at a fixed pace, there may be breaks from work counted into the working time.

§ 2. The list of works referred to in § 1 will be set out by the employer after the consultation with the employees or their representatives in the manner and in accordance with the principles defined in Article 237^{1a} and Article 237^{13a}, and after the consultation with a doctor responsible for preventative healthcare of the employees.

Art. 146. Shift work. Shift work is allowed regardless of the applicable working time system.

Art. 147. Total number of days off. In each working time system providing for the working time schedule including work on Sundays and public holidays, employees will be guaranteed a total number of days off in the applicable calculation period which corresponds to at least the number of Sundays, public holidays and days off in an average five-day working week falling in that period.

Art. 148. Particular protection. In systems and schedules of working time referred to in Articles 135¹ 138, 143 and 144, the working time of:

- 1) employees employed on job positions at which the maximum admissible levels of concentration or intensity of factors harmful to health have been exceeded,
- 2) pregnant employees,
- 3) employees raising a child under the age of 4, without their consent - may not exceed 8 hours. An employee retains the right to remuneration for the time not worked in connection with the reducing of the length of his working time for that reason.

Art. 149. Records of working time.

§ 1. An employer must keep records of the employee's working time in order to correctly determine his remuneration and other work-related benefits. The employer will disclose the records to the employee at the employee request.

§ 2. In relation to employees covered by the task-based working time system, no such records are necessary for employees managing the work establishment in the name of the employer and employees who are paid a lump sum for overtime or for work at night.

Art. 150. Determining the organisation of working time.

§ 1. Systems and schedules of working time, as well as the applicable calculation periods of working time, are determined in a collective labour agreement or in work regulations, or in an announcement if the employer is not covered by a collective labour agreement or is not obliged to set out work regulations, subject to § 2 and 3 and Article 139 § 3 and 4.

§ 2. If there is no enterprise trade union at the employer, or if the enterprise trade union does not consent to the determination or change of systems and schedules of working time as along with calculation periods of working time, the employer may use calculation periods of working time determined in Article 129 § 2 and Article 135 § 2 and 3 - after prior notification of a relevant labour inspector.

§ 3. The working time systems referred to in Articles 143 and 144 apply on the basis of an employment contract.

§ 4. Article 104⁹ applies accordingly to the announcement referred to in § 1.

Rozdział V. Overtime work.

Art. 151. Definition; admissibility; limit.

§ 1. Work performed in excess of the standard working time binding an employee, as well as work performed in excess of an extended daily working time resulting from the system and schedule of working time binding the employee, is overtime work. Overtime work is allowed in the following cases:

- 1) where it is necessary to perform a rescue operation in order to protect human life or health, to protect property or the environment, or to repair a breakdown,
- 2) to meet the special needs of an employer.

§ 2. The provision of § 1 point 2 does not apply to employees employed on job positions where the maximum admissible concentration and intensity of factors harmful to human health have been exceeded.

§ 3. The number of overtime hours worked in connection with the circumstances referred to in § 1 point 2 cannot exceed 150 hours in a calendar year per employee.

§ 4. It is possible to set out other number of overtime hours in a calendar year than the one determined in § 3 in a collective labour agreement or in work regulations, or in an employment contract if the employer is not covered by a collective labour agreement or is not obliged to set out work regulations.

§ 5. For an employee working part time, the parties set out in the employment contract the admissible number of working hours above the working time specified in the employment contract, which, if exceeded, entitles the employee to the remuneration bonus referred to in Article 151¹ § 1, in addition to the regular remuneration.

Art. 151¹. Compensation due to overtime work.

§ 1. For overtime work, in addition to the regular remuneration, a bonus is due in the following amount:

1) 100 per cent of remuneration for overtime work:

a) at night,

b) on Sundays and public holidays that are not working days for an employee, in accordance with the schedule of working time, binding an employee,

c) on a day off granted to an employee in exchange for work on a Sunday or on a public holiday, in accordance with the schedule of working time, binding an employee,

2) 50 per cent of remuneration for overtime work falling on any day other than as determined in point 1.

§ 2. The bonus, in the amount determined in § 1 point 1, is also due for each hour of overtime work on the grounds of exceeding the average weekly standard working time in the applicable calculation period, unless the employee has already exceeded this standard in overtime hours worked, for which he is entitled to a bonus in the amount determined in § 1.

§ 3. The remuneration constituting a basis for calculating the bonus referred to in § 1, includes the employee's remuneration resulting from his personal remuneration grade setting out an hourly or monthly rate, and if this component of remuneration was not established when setting the remuneration conditions - 60 per cent of remuneration.

§ 4. In relation to employees who perform work outside of the work establishment on a regular basis, the remuneration, together with the bonus referred to in § 1, can be substituted by a lump sum in an amount corresponding to the expected length of overtime work.

Art. 151². Compensation for overtime work in the form of time off.

§ 1. In exchange for overtime work, an employer, at the written request of an employee, may grant the employee time off equal to the overtime.

§ 2. Granting time off in exchange for overtime work may also take place without a request from an employee. In this case the employer must grant the employee time off, before the end of the calculation period, amounting to one and a half times the number of hours worked overtime, though this may not cause a reduction in the remuneration due to an employee for the full monthly working time.

§ 3. In the cases specified in § 1 and 2, an employee is not entitled to a bonus for overtime work.

Art. 151³. Compensation for overtime work on a day off. If an employee has performed work on a day off under a schedule of working time in an average five-day working week, under the circumstances provided for in Article 151 § 1, he is entitled to another day off granted to the employee before the end of the calculation period, on a date agreed with the employee.

Art. 151⁴. Work of managers.

§ 1. Employees managing the work establishment in the name of the employer, as well as heads of organisational units, perform overtime work, as necessary, without the right to remuneration or a bonus for overtime work, subject to § 2.

§ 2. Heads of organisational units who work overtime on a Sunday or on a public holiday are entitled to remuneration and a bonus for overtime work in the amount specified in Article 151 § 1, unless they are granted another day off in exchange for work on that day.

Art. 151⁵. On-call shift.

§ 1. An employer may oblige an employee to remain on call outside of regular working hours to provide work determined in an employment contract in the work establishment or in another place designated by the employer (on-call shift).

§ 2. The time of an on-call shift is not counted in the working time if, during the on-call shift, the employee does not perform any work. The time spent on an on-call shift may not violate the employee's right to rest, as referred to in Articles 132 and 133.

§ 3. For the time of an on-call shift, except for an on-call shift performed at home, the employee is entitled to time off corresponding to the length of the on-call shift, and if time off cannot be granted - remuneration resulting from his personal remuneration grade setting out an hourly or monthly rate, and if this component of remuneration was not established when setting the remuneration conditions - 60 per cent of remuneration.

§ 4. The provision of § 2 sentence 2 and § 3 do not apply to employees managing the work establishment in the name of the employer.

Calculation of working time due to the termination Article 151⁶ of an employment relationship

Art. 151⁶. Calculation of working time due to the termination of an employment relationship.

§ 1. If an employment relationship is terminated before the end of a calculation period, the employee has the right, in addition to the regular remuneration, to the bonus referred to in Article 151 § 1 if, from the beginning of the calculation period up to the termination of the employment relationship, the employee worked hours exceeding the standard working time referred to in Article 129.

§ 2. The provision of § 1 applies accordingly in the event of establishing an employment relationship in the course of a calculation period.

Rozdział VI. Night time work.

Art. 151⁷. Night time.

§ 1. Night time work includes any 8 hours between 9 pm and 7 am.

§ 2. An employee whose schedule of working time includes at least 3 night time hours of work in each 24-hour period, or where at least one quarter of his working time in a calculation period falls during the night, is considered to be a night employee.

§ 3. The working time of a night employee cannot exceed 8 hours in a 24-hour period if he holds a job that is particularly dangerous or involves a considerable physical or intellectual effort.

§ 4. The list of jobs referred to in § 3 must be set out by an employer in an agreement with an enterprise trade union, and if there is no enterprise trade union active at the employer - with the representatives of employees chosen in the standard method adopted at a given employer, and after consultation with the doctor responsible for the preventative healthcare of employees, taking into account the necessity of ensuring work safety and the

protection of the employees health.

§ 5. The provision of § 3 does not apply:

- 1) to employees managing the work establishment in the name of the employer,
- 2) where it is necessary to perform a rescue operation to protect human life or health, to protect property or the environment, or to repair a breakdown.

§ 6. At the written request of an employee referred to in § 2, the employer informs the relevant district labour inspector about the employment of employees working at night.

Art. 151⁸. Compensation for night time work.

§ 1. A night employee is entitled to a bonus to remuneration for each hour of work at night, amounting to 20 per cent of the hourly rate applicable to the minimum remuneration for work, determined under separate provisions.

§ 2. In relation to employees who provide work at night outside of the work establishment on a regular basis, the bonus referred to in § 1 may be replaced by a lump sum equivalent to the expected length of work at night.

Rozdział VII. Work on Sundays and public holidays.

Art. 151⁹. Days off.

§ 1. Days off include Sundays and public holidays referred to in the provisions on days off.

§ 2. Work performed between 6 am on that day and 6 am on the next day is treated as work on Sundays and public holidays, unless another time applies at a given employer.

Art. 151¹⁰. Admissibility of work on Sundays and public holidays. Work on Sundays and public holidays is allowed:

- 1) where it is necessary to perform a rescue operation to protect human life or health, to protect property or the environment, or to repair a breakdown,
- 2) in the case of activities involving continuity
- 3) in the case of shift work,
- 4) at necessary maintenance repairs,
- 5) in the transport and public transport sector,
- 6) for enterprise fire brigades and enterprise rescue teams,
- 7) when guarding property or protecting people,
- 8) in agriculture and animal husbandry,
- 9) to provide services that are necessary due to their usefulness to society and the daily needs of the public,

in particular in:

- a) *(abrogated)*
- b) establishments providing services to the public,
- c) the catering business,
- d) hotels,
- e) municipal establishments,
- f) medical service centres and other medical service establishments providing for people whose health condition makes it necessary for them to be given 24-hour or all-day medical services,
- g) social assistance organisational units as well as family support and foster care system organisational units ensuring 24-hour care,
- h) culture, education, tourism and leisure institutions,
- 10) in relation to employees employed in a working time system in which the work is performed exclusively on Fridays, Saturdays, Sundays and public holidays.

Art. 151¹¹. Compensation for work on Sundays and public holidays.

§ 1. An employer is obliged to ensure another day off to an employee performing work on Sundays and public holidays, in the cases referred to in Article 151^{9a} § 3 and Article 151¹⁰ points 1-9:

- 1) in exchange for work on a Sunday - within the period of 6 calendar days preceding or following that Sunday,
- 2) in exchange for work on a public holiday - within the calculation period.

§ 2. If it is not possible to use a day off within the period determined in § 1 point 1 in exchange for work on a Sunday, the employee is entitled to a day off before the end of the calculation period, and if this is not possible - a bonus to the remuneration in the amount determined in Article 151¹ § 1 point 1 for each hour of work on a Sunday.

§ 3. If it is not possible to use a day off within the period determined in § 1 point 2 in exchange for work on a public holiday, the employee is entitled to a bonus to the remuneration in the amount determined in Article 151¹ § 1 point 1 for each hour of work on a public holiday.

§ 4. The provisions concerning work on Sundays also apply to work on a public holiday falling on a Sunday.

Art. 151¹². Duty to ensure a Sunday off. An employee working on Sundays must have a Sunday off at least once every 4 weeks. This does not apply to an employee employed in the working time system referred to in Article 144.

Art. 151^{9a}. Prohibition on work on public holidays.

§ 1. Work on public holidays in commercial establishments is not allowed.

§ 2. The provision of § 1 also applies if a public holiday falls on Sunday.

§ 3. Work on Sundays is allowed in commercial establishments to perform work necessary due to their usefulness to society and the daily needs of the public.

Dział Siódmy. Employee Leave.

Rozdział I. Annual leave.

Art. 152. Definition; no possibility to renounce the right.

§ 1. An employee has the right to annual, uninterrupted, paid leave, hereinafter referred to as „leave”.

§ 2. An employee may not renounce his right to leave.

Art. 153. Acquisition of the right to annual leave.

§ 1. In the calendar year in which an employee starts work for the first time, he acquires the right to leave after each month of work amounting to 1/12 of the leave he is entitled to after one year of work.

§ 2. An employee acquires the right to subsequent leave in each successive calendar year.

Art. 154. Length of annual leave.

§ 1. The length of leave amounts to:

- 1) 20 days - if an employee has been employed for less than 10 years,
- 2) 26 days - if an employee has been employed for at least 10 years.

§ 2. The length of leave for a part-time employee is proportional to the working time of this employee, using the length of leave determined in § 1; a part of a day of leave will be rounded up to a full day.

§ 3. The length of leave in a given calendar year, specified on the basis of § 1 and 2, may not exceed the length determined in § 1.

Art. 154¹. Inclusion of periods of previous employment.

§ 1. Periods of previous employment, regardless of intervals in employment and how the employment relationship ended are counted into the employment period determining the right to leave and the length of leave.

§ 2. If an employee holds two or more employment relationships at the same time, the employment period includes the period of the first unfinished employment falling before commencing a second or successive employment relationship.

Art. 154². Granting leave in an hourly amount.

§ 1. Leave is granted on working days for an employee, in accordance with the schedule of working time binding the employee, in the hourly amount corresponding to the working time of an employee in a 24-hour period on a given day, subject to § 4.

§ 2. As far as granting leave in accordance with § 1 is concerned, one day of leave corresponds to 8 hours of work.

§ 3. The provisions of § 1 and 2 apply accordingly to an employee whose standard working day is shorter than 8 hours under separate provisions.

§ 4. Granting leave corresponding to part of a working day is only possible if the leave remaining available to the employee is less than the full working time of the employee in a 24-hour period on a day when the leave is to be granted.

Art. 155. Inclusion of education periods.

§ 1. Graduating from the following schools means the following periods are counted into the employment of period on which the length of leave is based:

- 1) basic or other equivalent vocational school - the duration of the education provided for by the syllabus, but not more than 3 years,
- 2) secondary vocational school - the duration of the education provided for by the syllabus, but not more than 5 years,
- 3) secondary vocational school for graduates of basic (equivalent) vocational schools - 5 years,
- 4) middle comprehensive school - 4 years,
- 5) post-comprehensive school - 6 years,
- 6) school of higher education - 8 years. The periods of education referred to in points 1-6 cannot be aggregated.

§ 2. If an employee attended school while being employed, the employment period determining the length of leave includes either the duration of employment while attending school, or the duration of attending school, whichever is more favourable to the employee.

Art. 155¹. Proportional leave.

§ 1. In the calendar year in which the employment relationship with an employee entitled to the subsequent leave ends, the employee is entitled to leave:

- 1) with the current employer - in an amount proportional to the period worked at this employer in the year when that employment relationship ends, unless the employee has used up or exceeded the leave he is entitled to prior to the relationship ending.
- 2) with the new employer - in an amount:
 - a) proportional to the time remaining until the end of the calendar year, if the employment is for a period not shorter than the end of the calendar year, or
 - b) proportional to the employment period in the calendar year, if the employment is for a period shorter than the end of the calendar year, subject to § 2.

§ 2. An employee who, prior to the employment relationship ending, has exceeded the leave he is entitled to in a calendar year under § 1 point 1, is entitled to leave with the new employer in an appropriately reduced amount; the total length of leave within a calendar year may not be shorter than that resulting from the period worked in this year at all employers.

§ 2¹. The provision of § 1 point 2 applies accordingly to an employee undertaking work with a subsequent employer within a calendar year other than the year in which his employment relationship ended with a previous employer.

§ 3. (*deleted*)

Art. 155². Effect of unpaid leave on annual leave.

§ 1. The provision of Article 155¹ § 1 point 2 applies accordingly to an employee returning back to work at the current employer within a calendar year after at least one month of:

- 1) unpaid leave,
- 2) child care leave,
- 3) basic military service or substitute service, periodic military service, military training or military exercises,
- 4) detention awaiting trial,
- 5) service of prison service,
- 6) an unjustified absence from work.

§ 2. If the period referred to in § 1 falls after an employee acquires right to leave in a given calendar year, the length of the employee's leave upon returning to work within the same calendar year is proportionally lowered, unless the employee has already used or exceeded the leave he is entitled to.

Art. 155³. Calculation of proportional leave.

§ 1. When calculating leave under Articles 155¹ and 155², a partial day of leave is rounded up to a full day.

§ 2. The length of leave to which an employee is entitled in a given calendar year cannot exceed the length under Article 154 § 1 and 2.

Art. 156 (*deleted*)

Art. 157 (*deleted*)

Art. 158. Supplementary leave. If an employee who has used up all his leave for a given calendar year, later in the same year acquires the right to a longer amount of leave, he is entitled to supplementary leave.

Art. 159 (*abrogated*)

Art. 160 (*deleted*)

Art. 161. Date of granting leave. An employer is obliged to grant leave to an employee in the calendar year in which the employee acquires the right to the leave.

Art. 162. Division of leave into parts. Leave may be divided into parts at the request of an employee. However, at least one part of the leave should not be for shorter than 14 successive calendar days.

Art. 163. Schedule of leave.

§ 1. Leave is granted in accordance with a schedule of leave. The schedule of leave is established by the employer, under consideration of requests from employees and the need to ensure a regular course of work. The schedule of leave does not cover the leave granted to an employee in accordance with Article 167².

§ 1¹. An employer does not establish a schedule of leave if an enterprise trade union has consented to it; this also applies to an employer at whose work establishment there is no enterprise trade union. In such cases, the employer establishes the dates of leave upon agreement with an employee. The provisions of § 1 sentences 2 and 3 apply accordingly.

§ 2. The schedule of leave is announced to the employees in the standard method adopted at a given employer.

§ 3. At the request of a female employee, leave will be granted immediately after maternity leave; this also applies to a male employee raising his child during maternity leave.

Art. 164. Change of the date of leave possible.

§ 1. The date of leave may be changed at the request of an employee justified by important reasons.

§ 2. The date of leave may also be changed in respect of particular needs of an employer, if the absence of the employee would cause a serious disruption at work.

Art. 165. Obligatory change of the date of leave. If an employee is not able to begin leave within the determined period on grounds justifying an absence from work, and in particular because of:

- 1) a temporary incapacity to work because of illness,
- 2) isolation in relation to a contagious disease,
- 3) participation in military exercises or military training for a period up to 3 months,
- 4) maternity leave, then the employer is obliged to change the leave to a later date.

Art. 166. Inability to use leave. If any leave is not used because of:

- 1) a temporary incapacity to work because of illness,
- 2) isolation in relation to a contagious disease,
- 3) participation in military exercises or military training for the period up to 3 months,
- 4) maternity leave the employer must grant the leave at a later date.

Art. 167. Recall from leave.

§ 1. The employer may recall an employee from leave only if there are unforeseen circumstances, not existing when the employee began leave, which require the employee's presence at work.

§ 2. The employer must cover the costs incurred by an employee in direct relation to being recalled from leave.

Art. 167¹. Leave within the period of notice of an employment contract. An employee is obliged to use all outstanding leave within the period of notice of termination of an employment contract, as long as the employer grants leave within this period. In this case, the length of the granted leave, excluding unused leave, cannot exceed the length of leave under the provisions of Article 155¹.

Art. 167². Leave at the request of an employee. An employer is obliged to grant up to 4 days of leave in each calendar year at the request of an employee, within the period specified by the employee. The employee must apply for the leave at the latest on the day of beginning the leave.

Art. 167³ Length of leave at the request of an employee

The total length of leave used by an employee under the principles and in the manner determined in Article 167² may not exceed 4 days in a calendar year, regardless of the number of employers with whom the employee has a employment relationship in a given year.

Art. 168. The latest date to use leave. Leave not used within the period determined under Article 163 must be granted to an employee at the latest up to 30 September of the following calendar year; this does not apply to leave granted in accordance with Article 167².

Art. 169 (deleted)

Art. 170 (deleted)

Art. 171. Cash equivalent.

§ 1. If all or part of the leave to which an employee is entitled is not used prior to the termination or expiry of the employment relationship, the employee is entitled to the cash equivalent.

§ 2. (abrogated)

§ 3. The employer is not obliged to pay out the cash equivalent referred to in § 1 if the parties agree on the use of the leave during a subsequent employment relationship under a subsequent employment contract with the same employer immediately after the termination or expiry of the existing employment contract with that employer.

Art. 172. Remuneration for the time of leave. An employee is entitled to the same remuneration while on leave as he would receive if he was working during this time. Variable components of remuneration may be calculated on the basis of the average remuneration over a period of 3 months preceding the month of starting leave; where there are considerable variations in the amount of remuneration, the period may be extended up to 12 months.

Art. 172¹. Insurance that guarantees leave benefit.

§ 1. If, under separate provisions, the employer is obliged to cover an employee by insurance guaranteeing that the employee receives a cash benefit for the time of leave, the employee is not entitled to the remuneration provided for in Article 172, or the cash equivalent referred to in Article 171.

§ 2. If the cash benefit for the time of leave referred to in § 1 is lower than the remuneration provided for in Article 172 or from the cash equivalent referred to in Article 171, the employer is obliged to pay the employee the difference between these amounts.

Art. 173. Delegation. The Minister of Labour and Social Policy will set out, in an executive regulation, the detailed principles of granting leave, the determination and payment of remuneration for the time of leave and the cash equivalent for leave.

Art. 155^{2a}. Rounding up to a full month.

§ 1. When calculating the length of leave under Articles 155¹ and 155², a working calendar month corresponds to 1/12 of the length of the leave to which an employee is entitled in accordance with Article 154 § 1 and 2.

§ 2. Any partial calendar month is rounded up to a full month.

§ 3. If an employment relationship ends with one employer and a new employment relationship commences with another in the same calendar month, the leave is rounded up to a full month by the previous employer.

Rozdział II. Unpaid leave.

Art. 174. Unpaid leave at the request of an employee.

§ 1. At the written request of an employee, the employer can grant unpaid leave to the employee.

§ 2. The period of unpaid leave is not counted into the period of work on which the employee's rights are based.

§ 3. When granting unpaid leave longer than 3 months, the parties may provide for the recall of the employee from leave for important reasons.

§ 4. The provisions of § 2 and 3 do not apply in the cases regulated otherwise in separate provisions.

Art. 174¹. Work at another employer.

§ 1. An employer can grant an employee, with the written consent of the employee, unpaid leave to perform work at another employer for a period set out in an agreement concluded on this matter between the employers.

§ 2. The period of unpaid leave referred to in § 1 is counted into the period of work on which the employee rights at the existing employer are based.

Art. 175 (deleted)

Dział Ósmy. The Rights of Employees in Relation to Parenthood.

Art. 176. Work prohibited for women. Women cannot be employed to perform work that is especially strenuous or harmful to health. The Council of Ministers will determine, in an executive regulation, the list of such works.

Art. 177. Particular protection of pregnant employees.

§ 1. An employer may not terminate an employment contract with a female employee during her pregnancy or while on maternity leave, with or without notice, unless there are reasons justifying termination without notice through her fault, and an enterprise trade union representing the employee has consented to the termination of the employment contract.

§ 2. The provision of § 1 does not apply to a female employee on a trial period not exceeding one month.

§ 3. An employment contract concluded for a definite period of time or for the time of the completion of a specified task, or for a trial period exceeding one month that would terminate after the third month of pregnancy, is extended until the date of birth.

§ 3¹. The provision of § 3 does not apply to an employment contract for a definite period of time concluded to substitute an employee during a justified absence from work.

§ 4. The termination of an employment contract with notice by an employer during pregnancy or while on maternity leave may occur only in the event of the declaration of bankruptcy or the liquidation of the employer. The employer must agree with the enterprise trade union representing the female employee on the date of the termination of the employment contract. If it is not possible to ensure other employment within that period of time, the female employee is entitled to the benefits specified in separate provisions. The period of collecting such benefits is counted into the employment period on which the employee's rights are based.

§ 5. The provisions of § 1, 2 and 4 also apply accordingly to a male employee raising his child while on maternity leave.

Art. 178. Prohibition on employment overtime or at night.

§ 1. A pregnant employee cannot be employed to work overtime or at night. A pregnant employee cannot be delegated, without her consent, to work outside of her permanent workplace, and may not be employed to provide work under the working time system referred to in Article 139.

§ 2. An employee taking care of a child, until the child reaches the age of 4, may not be employed, without his or her consent, to work overtime or at night, or under the working time system referred to in Article 139, or to be delegated outside of his or her permanent workplace.

Art. 178¹. Duties towards a pregnant employee working at night. An employer employing a female employee at night is obliged, during her pregnancy, to change the working time schedule in a manner enabling the work to be performed outside of night time hours, and if this is not possible or is pointless, the female employee must be transferred to perform another work that does not have to be performed at night; if this is not possible, the employer is obliged to release the employee from the duty to perform work for as long as necessary. The provisions of Article 179 § 4² apply accordingly.

Art. 179. Change in conditions of work.

§ 1. If a pregnant employee or an employee nursing a child is performing work listed in the provisions issued under Article 176, which is prohibited from being performed by such an employee, regardless of the degree of risk of exposure to factors harmful to health or hazardous factors, then the employer is obliged to transfer the employee to perform other work, and if this is not possible then to release her from the duty to perform work for as long as necessary.

§ 2. If a pregnant employee or an employee nursing a child is performing any other work listed in the provisions issued under Article 176, then the employer is obliged to adapt the conditions of work to the conditions determined in those provisions, or to limit the working time in such a way as to eliminate threats to the health or safety of the employee. If it is not possible or is pointless to adapt the conditions of work for a current job position, the employer is obliged to transfer the employee to perform other work, and if this is not possible, to release the employee from performing work duties for as long as necessary.

§ 3. The provision of § 2 applies accordingly to the employer where a pregnant employee or an employee nursing a child has a medical certificate citing health reasons why the current work cannot be performed.

§ 4. If the conditions of work for the currently occupied job position are changed, the working time reduced, or the employee transferred to perform other work, and this results in the employee's remuneration being reduced, the employee is entitled to supplementary remuneration.

§ 5. While released from work duties, an employee retains the right to the current remuneration.

§ 6. After the reasons justifying the transfer of a female employee to another work, or shortening her working time, or releasing her from work duties, have ceased to exist, the employer is obliged to employ the employee to perform the type of work and to work the number of hours determined in the employment contract.

§ 7. The minister responsible for health matters will determine, in an executive regulation, the manner and procedures for issuing medical certificates confirming medical recommendations against the continuation of the current work by a pregnant employee or an employee who is nursing a child, taking into account threats to her health that exist in the working environment.

Art. 180. Maternity leave; length.

§ 1. A female employee is entitled to maternity leave of:

- 1) 20 weeks in the event of giving birth to one child at one birth,
- 2) 31 weeks in the event of giving birth to two children at one birth,
- 3) 33 weeks in the event of giving birth to three children at one birth,
- 4) 35 weeks in the event of giving birth to four children at one birth,
- 5) 37 weeks in the event of giving birth to five or more children at one birth.

§ 2. (*abrogated*)

§ 3. At least 2 weeks of maternity leave may fall before the expected date of birth.

§ 4. After the birth, an employee is entitled to maternity leave not used before the birth until the end of the period established under § 1.

§ 5. A female employee, after having used at least 14 weeks of maternity leave after the birth, is entitled to waive of the remaining part of the leave; in this case, the unused part of the maternity leave is granted to a male employee raising his child, upon his written request.

§ 6. A female employee must apply to an employer with a written request to waive part of maternity leave at least 7 days before she begins work; a certificate from the employer employing the male employee raising his child should be attached to the request, which will confirm the date of the employee commencing maternity leave pointed to in his request for the leave, falling immediately after the female employee waives part of her maternity leave.

§ 6¹. If, after the birth, a female employee has used her maternity leave of 8 weeks, a male employee is entitled to part of the maternity leave corresponding to the period within which the female employee entitled to the leave demands hospital care because her health condition prevents her from taking personal care of her child.

§ 6². In the case specified in § 6¹, the maternity leave of the female employee is interrupted for the period during which the male employee uses this leave.

§ 6³. The total length of maternity leave in the circumstances under § 6¹ and § 6² may not exceed the length determined in § 1.

§ 7. In the event of the death of a female employee during the maternity leave, the male employee raising the child is entitled to the unused part of the maternity leave.

Art. 180¹. Stillbirth.

§ 1. In the event of a stillbirth, or if the child dies within the first 8 weeks, a female employee is entitled to maternity leave of 8 weeks after the birth, though not less than 7 days from the death of the child. An employee who has given birth to more than one child at one birth is entitled to maternity leave in the scope depending on the number of children who remain alive.

§ 2. If the child dies after the first 8 weeks, the female employee retains the right to maternity leave for 7 days from the death of the child. The provision of § 1 sentence 2 applies.

Art. 181. Child requiring hospital care. If a newborn child requires hospital care, a female employee who has used 8 weeks of the maternity leave after the birth, may use the remaining part of that leave at a later date, after the

child has been released from hospital.

Art. 182. Resigning from raising the child. If a mother decides not to raise the child and gives the child up for adoption or sends it to an adoption nursery, she is not entitled to the part of the maternity leave that falls after the child has been given away. However, the maternity leave after the birth cannot be less than 8 weeks.

Art. 182¹. Additional maternity leave.

§ 1. A female employee is entitled to additional maternity leave of:

- 1) up to 4 weeks - in the case referred to in Article 180 § 1 point 1,
- 2) up to 6 weeks - in the cases referred to in Article 180 § 1 points 2?5.

§ 2. Additional maternity leave is granted once, for one or more weeks, immediately after using the maternity leave.

§ 3. Additional maternity leave is granted at the written request of a female employee, submitted at least 7 days before the employee starts to use that leave; the employer is obliged to accept the employee's request.

§ 4. A female employee entitled to additional maternity leave may combine this leave with working at the employer granting the leave for up to half of the normal working time; in this case the additional maternity leave is granted for the remaining part of the daily working time.

§ 5. In the case determined in § 4, work is resumed at the written request of the female employee, filed at least 7 days before the employee begins to perform work. In the request, the employee determines the scope of working time and the period for which the employee intends to combine the additional leave with performing work; the employer is obliged to accept the employee's request.

§ 6. The provisions of Article 45 § 3, Article 47, Article 50 § 5, Article 57 § 2, Article 163 § 3, Article 165 point 4, Article 166 point 4, Article 177, Article 180 § 6¹-7, Article 180¹ § 2 and Article 183¹ § 1 apply accordingly.

Art. 182². Male employee raising a child.

§ 1. The provisions of Article 182¹ apply accordingly to a male employee raising his child:

- 1) in the case referred to in Article 180 § 5,
- 2) in the case of a female employee using maternity leave.

§ 2. In the case referred to in § 1 point 2, a male employee raising his child determines the date of the female employee ending her maternity leave in his request.

Art. 182³. Length of paternity leave.

§ 1. A male employee raising a child has the right to 2 weeks paternity leave to be taken:

- 1) before the child reaches the age of 12 months, or
- 2) up to 12 months from the moment the decision on adoption becomes final, but not longer than up to the moment the child reaches the age of 7, and if there has been a decision to postpone the child's schooling, not longer than up to the moment the child reaches the age of 10.

§ 2. Paternity leave is granted at the written request of a male employee raising his child, filed at least 7 days before the employee starts to use the leave; the employer is obliged to accept the employee's request.

§ 3. The provisions of Article 45 § 3, Article 47, Article 50 § 5, Article 57 § 2, Article 163 § 3, Article 165 point 4, Article 166 point 4, Article 177, Article 183 § 1 and Article 183¹² apply accordingly.

Art. 183. Leave on account of adoption.

§ 1. An employee who has received a child to raise and has applied to a custody court to start proceedings in respect of the adoption of the child, or who has received the child to raise as a foster family, except for professional foster family, has the right to leave, on the terms of maternity leave, amounting to:

- 1) 20 weeks when receiving one child,
- 2) 31 weeks when receiving two children at the same time,
- 3) 33 weeks when receiving three children at the same time,
- 4) 35 weeks when receiving four children at the same time,
- 5) 37 weeks when receiving five or more children at the same time - which must be taken before the child reaches the age of 7, and if there has been a decision to postpone the child's schooling then before the child reaches the age of 10. The provisions of Article 45 § 3, Article 47, Article 50 § 5, Article 57 § 2, Article 163 § 3, Article 165 point 4, Article 166 point 4, Article 177, Article 180 § 5-7 and Article 180¹ § 2 apply accordingly.

§ 2. If the employee referred to in § 1 has received a child under the age of 7, and there has been a decision to postpone the child's schooling, the employee has the right to 9 days leave on the terms of maternity leave, to be taken before the child reaches the age of 10.

§ 3. An employee has the right to additional leave, on the terms of maternity leave, amounting to:

- 1) up to 4 weeks - in the case referred to in § 1 point 1,
- 2) up to 6 weeks - in the case referred to in § 1 points 2?5,
- 3) up to 2 weeks - in the case referred to in § 2.

§ 4. Article 45 § 3, Article 47, Article 50 § 5, Article 57 § 2, Article 163 § 3, Article 165, point 4, Article 166 point 4, Article 177, Article 180 § 6¹-7 and Article 180¹ § 2, Article 182¹ § 2-5 and Article 183¹ § 1 apply accordingly to additional leave on the terms of maternity leave.

Art. 183¹. First day of leave.

§ 1. When granting maternity leave and leave on the terms of the maternity leave, one week of leave is equivalent to 7 calendar days.

§ 2. If a female employee does not use maternity leave before the expected date of birth, the first day of the maternity leave is the date of birth.

Art. 183². Employment after maternity leave. An employer admits an employee to work on previously held position after a maternity leave, leave on the terms of maternity leave, additional maternity leave or additional leave on the terms of maternity leave, and if this is not possible, on a job position equivalent to the one occupied before starting the leave, or on another job position corresponding to the employee's professional qualifications, for the remuneration for work that the employee would have received if the leave had not been used.

Art. 184. Maternity allowance. A maternity allowance is due for the time of maternity leave, additional maternity leave and paternity leave, in accordance with the rules and conditions specified in separate law provisions.

Art. 185. Medical examinations.

§ 1. The state of pregnancy must be certified by a medical certificate.

§ 2. The employer is obliged to grant a pregnant employee time off for examinations recommended by a doctor, conducted in connection with the pregnancy, if the examinations cannot be conducted outside of working hours. The employee retains the right to remuneration for an absence from work for that reason.

Art. 186. Right to take childcare leave.

§ 1. An employee who has been employed for at least 6 months has the right to take up to 3 years of childcare leave in order to take personal care of the child before the child reaches the age of 4. The six-month employment period includes previous periods of employment.

§ 2. An employee who has worked for the employment period determined in § 1, regardless of whether or not the employee has used the childcare leave provided for in this provision, may take up to 3 years of childcare leave before the child reaches the age of 18, if the child requires the personal care of the employee for health reasons, confirmed by a medical certificate on the child's disability or the degree of the child's disability.

§ 3. Parents or custodians of a child meeting the criteria to be granted childcare leave may take up to 3 months leave at the same time.

§ 4. Childcare leave is granted at the request of an employee.

§ 5. Childcare leave may be used in no more than 4 parts.

Art. 186¹. Particular protection.

§ 1. The employer may not terminate an employment contract, with or without notice, within the period from an employee filing a request for childcare leave until the leave ends. During this period, the employer may terminate the contract only if the bankruptcy or liquidation of the employer is announced, or if there are reasons justifying the termination of the employment contract without notice through the fault of the employee.

§ 2. If an employee files a request for childcare leave after performing an act aimed at terminating the employment contract, the employment contract terminates on the date resulting from the act.

Art. 186². Taking on paid work during childcare leave.

§ 1. While on childcare leave, an employee may take on paid work at the current or another employer, and may pursue other activity, including studying or training, as long as it does not interfere with the personal care of the child.

§ 2. If it is determined that the employee has permanently stopped taking personal care of a child, the employer calls on the employee to report for work at a time designated by the employer, though not later than 30 days from acquiring the information, and not sooner than 3 days from calling the employee.

§ 3. The provision of § 2 also applies if the employer determines that both of the parents or custodians are taking childcare leave at the same time; this does not apply to the case determined in Article 186 § 3.

Art. 186³. Waiving childcare leave. An employee may waive childcare leave:

- 1) at any time, with the employer's consent,
- 2) after a prior notification of an employer - at the latest 30 days before the date of the intended commencement of work.

Art. 186⁴. Employment after childcare leave. An employer readmits an employee to work at the end of the childcare leave on the current job position, or, if this is not possible, on the job position equivalent to the one occupied before commencing the childcare leave, or on another job position corresponding to the employee's professional qualifications, for remuneration not lower than the remuneration for work that the employee received on the job position held before the leave.

Art. 186⁵. Childcare leave and employment period. Childcare leave taken is counted into the employment period on which the employee's rights are based.

Art. 186⁶. Delegation. The minister for labour matters will determine, in an executive regulation, detailed principles of granting childcare leave, including the form and the date of filing a request for leave, taking into consideration the conditions concerning ensuring the normal course of work in a work establishment, as well as additional conditions concerning a request for childcare leave in the cases referred to in Article 186 § 2 and 3.

Art. 186⁷. Obligatory reduction of the length of working time.

§ 1. An employee entitled to childcare leave may file a request with the employer to reduce the working time to not lower than half of the full scope of the working time in the period in which he could use the leave. The employer is obliged to accept the employee's request.

§ 2. The request referred to in § 1 is filed two weeks before the employee starts to work in the reduced scope of working time. If the request has been filed without the preservation of the above time limit, the employer reduces the scope of working time not later than on the day when two weeks elapse from the day of filing the request.

Art. 186⁸. Prohibition on notice of termination and termination of an employment contract for 12 months.

§ 1. An employer may not terminate an employment contract, with or without notice, from when the employee entitled to childcare leave files a request to reduce the working time until the return to normal working time, but not longer than for the total period of 12 months. The termination of an employment contract by the employer within that time is allowed only if the employer is declared bankrupt or enters into liquidation, and also when there are grounds to justify the termination of the employment contract without notice through the fault of an employee.

§ 2. The provision of Article 186¹ § 2 applies accordingly.

Art. 187. Break for nursing.

§ 1. A female employee who is nursing a child has the right to two half-hour breaks from work calculated into the working time. An employee who is nursing more than one child has the right to two breaks from work, of 45 minutes each. The breaks for nursing a child may, at the employee's request, be granted at one time.

§ 2. An employee employed for a period shorter than 4 hours per day is not entitled to breaks for nursing. If the employee works for no more than 6 hours a day, the employee is entitled to one break for nursing.

Art. 188. Release from work to take care of the child. An employee raising at least one child of up to the age of 14 is entitled to be released from work for 2 days in a calendar year, while retaining the right to remuneration.

Art. 189. Childcare benefit. The right to a benefit for a period of absence from work due to the need to take personal care of the child is regulated by separate provisions.

Art. 189¹. Exercise of rights in relation to parenthood. If both parents or custodians of a child are employed, only one of them may exercise the rights determined in Article 148 point 3, Article 178 § 2, Article 182¹ § 1, Article 186 § 1 and 2, Article 186⁷ § 7 and Article 188.

Dział Dziewi ły. Employment of Young People.

Rozdział I. General provisions.

Art. 190. Definition.

§ 1. For the purposes of the Code, a young person is a person who has reached the age of 16, but is not yet 18.

§ 2. Young people who have not yet reached the age of 16 cannot be employed.

Art. 191. Admissibility of employment of a young person.

§ 1. It is only possible to employ a young person who:

- 1) has completed at least basic secondary school,
- 2) presents a medical certificate declaring that work of a given kind does not endanger his health.

§ 2. A young person who does not have professional qualifications can be employed only for the purpose of vocational training.

§ 3. The Council of Ministers will determine, in an executive regulation, the principles and conditions for vocational training, as well as the rules for remunerating young employees within the period of vocational training.

§ 4. *(deleted)*

§ 5. The Minister of Labour and Social Policy, in co-operation with the Minister of National Education, may determine, in an executive regulation, exceptional cases in which it is possible to:

- 1) employ a young person who has not completed basic secondary school,
- 2) release a young person who does not have professional qualifications from vocational training,
- 3) employ a young person who has not yet reached the age of 16 and who has completed basic secondary school,
- 4) employ a young person who has not yet reached the age of 16 and who has not completed basic secondary school.

Art. 192. Duty to take care and provide help. The employer is obliged to ensure care and help for young employees, as required for them to adapt to the proper performance of work.

Art. 193. Register of young employees. The employer must keep a register of young employees.

Rozdział II. Concluding and terminating employment contracts for vocational training.

Art. 194. Application of provisions of the Code. The provisions of the Code concerning employment contracts for an indefinite period of time apply to concluding and terminating employment contracts for vocational training with young people, subject to the provisions of Articles 195 and 196.

Art. 195. Conditions of contract.

§ 1. An employment contract for vocational training must determine in particular:

- 1) the type of vocational training (training for a particular vocation or training in a particular job),
- 2) the period of duration of and location where the vocational training will take place,
- 3) the form of theoretical training,
- 4) the amount of remuneration.

§ 2. The Council of Ministers may determine, in an executive regulation, cases in which it is allowed to conclude the employment contracts for vocational training for a definite period of time.

Art. 196. Reasons for notice of termination. An employment contract concluded for vocational training can only be terminated with notice in the event of:

- 1) the young employee failing to perform the duties specified in the employment contract, or the duty to supplement his education, regardless of the educational facilities applicable to him,
- 2) the employer being declared bankrupt or entering into liquidation,
- 3) the reorganisation of the work establishment preventing the continuation of vocational training,
- 4) the young employee being declared unsuitable for the work in which he is completing vocational training.

Rozdział III. Supplementary education.

Art. 197. Duty to supplement education.

§ 1. A young employee has a duty to supplement his education until he reaches the age of 18.

§ 2. The young employee is obliged in particular to:

- 1) supplement his education in respect of primary school and basic secondary school, provided he has not completed this school,
- 2) supplement his education in respect of secondary school level or in extramural classes.

Art. 198. Release for education. An employer must release a young employee from work for the time necessary to participate in training in connection with supplementing his education.

Art. 199. Extending the duty of education. If a young person has not completed vocational training before reaching the age of 18, the duty to supplement education, in accordance with the provisions of Article 197, may be extended until the vocational training has been completed.

Art. 200. Delegation. The Minister of Labour and Social Policy, in co-operation with the Minister of National Education, may, in an executive regulation, determine exceptional cases in which it is permitted to release a young person from the duty to supplement education.

Rozdział IIIa. Employing young people for purposes other than vocational training.

Art. 200¹. An employment contract to perform light work.

§ 1. A young person may be employed on the basis of an employment contract to perform light work.

§ 2. Light work may not endanger the life, health or psychophysical development of a young person, and may not make it difficult for a young person to perform any school duty.

§ 3. A list of light work will be set out by the employer with prior permission from a doctor performing occupational medicine services. The list must be confirmed by the relevant labour inspector. The list of light work may not include works forbidden to young employees, as determined in the provisions issued on the basis of Article 204.

§ 4. The list of light work is determined in the work regulations. An employer who does not have an obligation to issue work regulations determines the list of light work separately.

§ 5. The employer must ensure that the young person is familiar with the list of light work before starting work.

Art. 200². Length and schedule of working time at light work.

§ 1. The employer determines the length and schedule of working time of a young person employed to perform light work, considering the weekly number of hours of education resulting from the syllabus, and from the young person's schedule of school activities.

§ 2. The weekly length of a young person's working time while participating in school activities may not exceed 12 hours. On days involving school activities, the young person's working time may not exceed 2 hours.

§ 3. The working time of a young person during school holidays may not exceed 7 hours in a 24-hour period and 35 hours per week. The working time of a young person up to 16 years of age may not exceed 6 hours in a 24-hour period.

§ 4. The working time determined in § 2 and 3 is also binding in the case when a young person is employed with more than one employer. Before establishing an employment relationship, the employer must obtain a declaration from a young person on being in an employment relationship with another employer, or not.

Rozdział IV. Particular health protection.

Art. 201. Medical examinations.

§ 1. A young person will be subject to medical examinations before being admitted to work, and will undergo periodic examinations and check-ups throughout the employment period.

§ 2. If a doctor states that a given work endangers the health of the young person, the employer must change the type of work or, if this is not possible, terminate the employment contract immediately and to pay compensation amounting to the remuneration for the period of notice. The provision of Article 51 § 2 applies accordingly.

§ 3. The employer must inform the statutory representative of a young person about any professional risk connected with the work performed by a young person, as well as on the principles of protection against any connected dangers.

Art. 202. Working and education time.

§ 1. The working time of a young person up to 16 years of age may not exceed 6 hours in a 24-hour period.

§ 2. The working time of a young person over the age of 16 may not exceed 8 hours in a 24-hour period.

§ 3. The time of education, as specified in the obligatory school syllabus, regardless of whether it takes place within working hours or not, is counted into the working time of a young person.

§ 3¹. If the working time of a young person in a 24-hour period is longer than 4.5 hours, the employer must introduce a break from work lasting continuously for 30 minutes, counted into the working time.

§ 4. *(deleted)*

Art. 203. Overtime work; work at night.

§ 1. A young person may not be employed to work overtime or at night.

§ 1¹. Night time for a young person falls between 10 pm and 6 am. In the cases determined in Article 191 § 5, night time falls between 8 pm and 6 am.

§ 2. A young person's break from work, including night time, should last continuously for not less than 14 hours.

§ 3. A young person has the right each week to at least 48 hours of uninterrupted rest, which should include Sunday.

Art. 204. Prohibited work.

§ 1. A young person may not be employed to perform prohibited types of work, a list of which will be determined, in an executive regulation, by the Council of Ministers.

§ 2. *(deleted)*

§ 3. The Council of Ministers may, in an executive regulation, permit the employment of young persons over the age of 16 in some types of prohibited work if it is necessary to complete vocational training, at the same time determining conditions ensuring particular health protection to a young person employed to perform such work.

Rozdział V. Annual leave.

Art. 205. Acquiring the right to leave.

§ 1. A young person acquires the right to 12 working days leave after 6 months from starting the first work.

§ 2. After one year of employment, a young person acquires the right to 26 working days leave. However, in the calendar year in which he reaches the age of 18, he has the right to 20 working days leave as long as he had the right to leave before he reached 18 years of age.

§ 3. A young person attending school is granted leave during school holidays. If a young person has not acquired the right to leave referred to in § 1 and 2, the employer may grant leave to the young person in advance, during school holidays, at the request of the young person.

§ 4. The employer is obliged to grant unpaid leave during school holidays at the request of a young person being a student of a school for employees; total leave, together with annual leave, cannot exceed 2 months. The period of unpaid leave is counted into the period of work on which the employee's rights are based.

§ 5. The provisions of Section Seven apply to leave for young people if not regulated by the provisions of this Chapter.

Rozdział VI. Craft worker training.

Art. 206. Craft training. The provisions of Articles 190-205 apply accordingly to young people employed under a contract on vocational training at employers being craftsmen.

Dział Dziesiąty. Health and Safety at Work.

Rozdział I. Basic duties of an employer.

Art. 207. Basic duties of an employer.

§ 1. The employer is responsible for health and safety in the work establishment. The duties of employees in relation to health and safety, as well as health and safety tasks entrusted to specialists from outside the work establishment, as referred to in Article 237¹ § 2, do not affect the employer's responsibility.

§ 2. The employer is obliged to protect the health and life of employees by ensuring conditions of health and safety at work by the appropriate use of the achievements of science and technology. In particular, the employer is obliged to:

- 1) organise work in a manner ensuring conditions of health and safety at work,
- 2) ensure the provisions and the principles of health and safety at work are followed in the work establishment, issue instructions to remedy breaches within this scope, and supervise the implementation of such instructions,
- 3) react to the needs in relation to ensuring health and safety at work, as well as adopt measures to improve the existing level of protection of health and life of employees, given the changing conditions of work,
- 4) ensure the development of a coherent policy preventing accidents at work and occupational diseases; the policy should consider technical problems, work organisation, conditions of work, social relations as well as the effect of factors of the work environment,
- 5) consider the protection of health of young employees, pregnant employees or employees nursing a child, as well as disabled employees within the preventive measures undertaken,
- 6) ensure the implementation of orders, submissions, decisions and decrees issued by the authorities exercising supervision over the conditions of work,
- 7) ensure the implementation of recommendations of a social labour inspector.

§ 2¹. The costs of the acts undertaken by an employer as part of health and safety at work must not be borne by the employees in any way.

§ 3. The employer and a person managing the employees are obliged to know, to the extent necessary to perform duties imposed on them, the provisions on the protection of work, including provisions and principles of health and safety at work.

Art. 207¹. Duty to provide information about dangers.

§ 1. The employer is obliged to inform employees about:

- 1) dangers to health and life in the work establishment on respective job positions and at the works performed, including information about principles of action in the event of a breakdown, and other situations endangering the health and life of employees,
- 2) protective and preventive actions undertaken for the purpose of eliminating or limiting dangers referred to in point 1,
- 3) employees designated for:
 - a) providing first aid
 - b) performing fire protection and employee evacuation activities,

§ 2. Information about the employees referred to in § 1 point 3 will include:

- 1) the name and surname,
- 2) the place of performing the work,
- 3) the company telephone number or a number of other means of electronic communications.

Art. 208. Co-operation of employers.

§ 1. If employees employed by various employers perform work at the same time and in the same place, the employers are obliged to:

- 1) co-operate with one another,
- 2) appoint a co-ordinator exercising supervision over the health and safety at work of all employees employed in the same place,
- 3) set out the principles of co-operation, taking into consideration the types of action in the event of dangers to the health or life of employees,
- 4) inform one another, as well as the employees or their representatives about acts related to preventing occupational dangers occurring in the course of the work performed.

§ 2. Appointing a co-ordinator referred to in § 1 does not release the respective employers from the duty to ensure conditions of health and safety at work for their employees.

§ 3. An employer whose premises are used by employees of other employers for work purposes, must provide the information referred to in Article 207¹ to those employers, to be passed on to their employees.

Art. 209. Duties of an employer.

§ 1. An employer starting activity must, within 30 days from commencing activity, notify in writing the relevant district labour inspector and the relevant State sanitary inspector of the place, the type and the scope of the activity being conducted.

§ 2. The duty referred to in § 1 is imposed on the employer in the event of any change in the place, the type and the scope of the conducted activity, in particular in the event of a change in the technology used or the profile of production, if the change in technology may increase the level of a danger to the health of employees.

§ 3. *(deleted)*

§ 4. The relevant district labour inspector or the relevant State sanitary inspector may order an employer conducting an activity causing particular dangers to the health or life of employees to make a periodical update of the information referred to in § 1.

Art. 209¹. Emergency first aid; duties of an employer.

§ 1. The employer is obliged to:

- 1) ensure measures necessary for providing emergency first aid, extinguishing of fires and the evacuation of employees,
- 2) appoint employees for:
 - a) providing first aid,
 - b) performing activities related to fire protection and the evacuation of employees,
- 3) ensure communications with external services specialising in particular in providing emergency first aid, medical rescue and fire protection.

§ 2. The acts referred to in § 1 should correspond to the type and scope of the conducted activity, the number of employees actually employed and other people present on the premises of the work establishment, and the type and level of dangers that occur.

§ 3. The number of employees referred to in § 1 point 2, as well as their training and their equipment should depend on the type and level of the dangers that may occur.

§ 4. If an employer employs only young employees or the disabled people - the acts referred to in § 1 point 2 may be performed by the employer himself. The provision of § 3 applies accordingly.

Art. 209². Danger to health or life; duties of an employer.

§ 1. If there is any possible danger to health or life, the employer must:

- 1) immediately inform employees about these dangers and undertake activities to ensure appropriate protection for them,
- 2) immediately provide instructions to employees, in the event of a direct danger, enabling them to interrupt work and move away from the location of the danger to a safe place.

§ 2. In the event of a direct danger to health or life, the employer is obliged:

- 1) to stop work and issue instructions to employees to move away from the location of the danger to a safe place,
- 2) not to issue instructions to continue work until the danger has been eliminated.

Art. 209³. Activities without contact with an employer.

§ 1. In the event of a direct danger to the health or life of employees or any other people, the employer must enable the employees to undertake activities in order to avoid the danger - even without contact with a superior - to the best of their knowledge and accessible technical measures.

§ 2. Employees who have undertaken activities referred to in § 1, do not bear any disadvantageous consequences of these activities, provided they have not neglected their duties.

Rozdział II. Rights and duties of an employee.

Art. 210. Right to refrain from the performance of work.

§ 1. If the conditions of work do not correspond to the provisions on health and safety at work and pose a direct danger to the health or life of an employee, or if the work performed by the employee presents a threat of such a danger to other people, the employee has the right to refrain from work, and to notify his superior immediately.

§ 2. If refraining from work does not remove the danger referred to in § 1, the employee has the right to move away from the place of danger, and to notify a superior immediately.

§ 2¹. An employee may not suffer any negative consequences in respect of refraining from work or moving away from the place of danger in the cases referred to in § 1 and 2.

§ 3. For the time of refraining from work or moving away from the place of the threat of danger in the cases referred to in § 1 and 2, the employee retains the right to remuneration.

§ 4. An employee has the right, after a prior notification of a superior, to refrain from the performance of work which requires special psychophysical efficiency in case his psychophysical condition does not guarantee a safe performance of work and establishes danger to other people.

§ 5. The provisions of § 1, 2 and 4 shall not apply to an employee whose employee duty is life-saving of human life or property.

§ 6. The Minister of Labour and Social Policy, in co-operation with the Minister of Health and Social Welfare, will determine, in an executive regulation, the types of works demanding special psychophysical efficiency.

Art. 211. Basic duties of an employee. A basic duty of an employee is to observe the provisions and principles of health and safety at work. In particular, an employee must:

- 1) be familiar with the provisions and principles of health and safety at work, participate in training sessions and briefings in this field as well as to undergo the required control examinations,
- 2) perform work in a manner that complies with the provisions and the principles of health and safety at work, as well as to comply with the instructions and directives issued in this area by superiors,
- 3) care about the proper condition of machines, devices, tools and equipment, as well as tidiness and order in working premises,
- 4) apply measures of group protection, and to use the entrusted means of individual protection and working clothing and shoes in accordance with their use,
- 5) undergo initial, periodic medical examinations, check-ups and other medical examinations as recommended, and to follow medical recommendations,
- 6) immediately notify a superior of an accident noticed in the work establishment, or a danger to life or human health, as well as to warn co-employees and other persons in the area of the threatening danger of any danger,
- 7) co-operate with the employer and superiors in the performance of duties concerning health and safety at work.

Art. 212. Duties of a person managing employees. Any person managing employees is obliged to:

- 1) organise job positions in accordance with the provisions and principles of health and safety at work,
- 2) care about efficiency of measures of individual protection and their application in accordance with their use,
- 3) organise, prepare and perform works to protect employees against accidents at work, occupational diseases and other diseases related to the conditions of the work environment,
- 4) care about conditions of health and safety in the working premises and technical equipment, and of efficiency of measures of group protection and their application in accordance with their use,
- 5) execute the observance of the provisions and principles of health and safety at work by employees,
- 6) ensure the execution of medical recommendations of a doctor conducting health care over employees.

Rozdział III. Buildings and working premises.

Art. 213. Construction or re-construction of the work establishment.

§ 1. The employer is obliged to ensure that the construction or re-construction of a building to be used for working premises is performed on the basis of plans taking into account the conditions of health and safety at work.

§ 2. A building in which there are working premises must meet the criteria related to health and safety at work.

§ 3. A re-construction of a building in which there are working premises must consider the improvement of the conditions of health and safety at work.

§ 4. The provisions of § 1-3 apply accordingly where the construction or the re-construction concerns part of the building in which working premises are to be located.

Art. 214. Adequate working premises.

§ 1. The employer is obliged to ensure working premises corresponding to the type of work performed and the number of employees actually employed.

§ 2. The employer is obliged to maintain buildings, and working premises in the buildings, as well as grounds and devices connected with them in a condition ensuring conditions of health and safety at work.

Rozdział IV. Machines and other technical devices.

Art. 215. Duties of constructor and producer. An employer is obliged to ensure that machines and other technical devices are applied that:

- 1) ensure conditions of health and safety at work, in particular protect an employee against injuries, action of hazardous chemical substances, electric shock, excessive noise, mechanical vibrations and radiation, as well as harmful and hazardous action of other factors of the work environment,
- 2) consider the principles of ergonomics.

Art. 216. Protection of machines and other technical devices.

§ 1. Machines and other devices that do not meet the criteria determined in Article 215 must be equipped by the employer with appropriate technical protective devices.

§ 2. If the construction of appropriate technical protective devices depends on the local conditions, the employer is responsible for fitting the machine or other technical device with such protective devices.

Art. 217. Declaration of conformity. Workstations cannot be equipped with machines and other technical devices that do not meet the criteria concerning the evaluation of conformity, specified in separate provisions.

Art. 218. Work devices. The provisions of Articles 215 and 217 apply accordingly to work devices.

Art. 219. Special requirements. The provisions of Articles 215 and 217 do not violate the criteria specified by provisions concerning machines and other technical devices, which are:

- 1) means of railway, road, sea, inland water and air transport,
- 2) subject to the provisions on technical supervision,
- 3) subject to the provisions of the Geological and Mining Law,
- 4) subject to the provisions applicable in organisational units subordinated to the Minister of National Defence and the Minister of Internal Affairs and Administration,

- 5) subject to the provisions of the Atomic Law.

Rozdział V. Factors and processes of work that create particular threats to health and life.

Art. 220. Degree of harmfulness of materials.

§ 1. No materials and technological processes can be used without first determining the degree of their potential harm to the health of employees, and without undertaking appropriate preventative measures.

§ 2. The Minister of Health and Social Welfare, in co-operation with the Minister of Labour and Social Policy, as well as other relevant ministers, will determine, in an executive regulation:

- 1) a list of organisational units entitled to test materials and technological processes for the purpose of determining their potential harm to health, and the scope of such tests,
- 2) a prohibition or restriction on the use, trade or transportation of materials and technological processes due to their potential harm to health, or a determination that their use, trade or transportation must comply with specified conditions.

§ 3. The provisions of § 2 do not apply to chemical substances and their mixtures.

Art. 221. Chemical substances and their mixtures.

§ 1. No chemical substances or their mixtures can be used unless clearly marked and easily identifiable.

§ 2. No hazardous substance, hazardous mixture, substance involving danger or mixture involving danger can be used without possessing an updated list of such substances and their mixtures as well as a chart of their characteristics, and their packing in order to protect against their harmful effects, fire or explosion.

§ 3. The use of hazardous substance, hazardous mixture, substance involving danger or mixture involving danger is allowed as long as measures ensuring the protection of the life and health of employees are applied.

§ 4. Separate provisions will set out the rules of classifying chemical substances and their mixtures in respect of their threats to health or life, the list of hazardous chemical substances, requirements concerning charts of characteristics, as well as how they should be marked.

§ 5. (*deleted*)

Art. 222. Carcinogenic and mutagenic factors.

§ 1. If an employee is working under conditions of exposure to carcinogenic or mutagenic chemical substances, their mixtures, factors or technological processes, the employer must substitute these chemical substances, their mixtures, factors or technological processes for ones that are less harmful to health, or must apply other available measures limiting the degree of their exposure, by the appropriate use of scientific and technological achievements.

§ 2. The employer must keep a register of all types of work requiring contact with carcinogenic or mutagenic chemical substances, their mixtures, factors and technological processes, as specified in the list referred to in § 3, and must keep a register of employees performing these types of work.

§ 3. The minister for health matters, in co-operation with the minister for labour matters, taking into account the varied qualities of carcinogenic or mutagenic chemical substances, their mixtures, factors or technological processes, their application and the need for necessary preventative measures to protect against the dangers resulting from their application, will determine, in an executive regulation:

- 1) a list of carcinogenic or mutagenic chemical substances, their mixtures, factors or technological processes and how they should be registered,
- 2) how the register of the works requiring contact with carcinogenic or mutagenic chemical substances, their mixtures, factors or technological processes should be kept,
- 3) how the register of employees performing these types of works should be kept,
- 4) specimen documents concerning the exposure of employees to carcinogenic or mutagenic chemical substances, their mixtures, factors or technological processes, and how these documents should be stored or submitted to the relevant entities for diagnosing and confirming occupational diseases,
- 5) detailed conditions of protecting employees against dangers caused by carcinogenic or mutagenic chemical substances, their mixtures, factors or technological processes,
- 6) conditions and methods of monitoring the health condition of employees exposed to carcinogenic or mutagenic chemical substances, their mixtures, factors or technological processes.

Art. 222¹. Harmful biological factors.

§ 1. If an employee is working under conditions of exposure to harmful biological factors, the employer must apply all necessary measures eliminating the exposure, and if this is not possible, then apply measures limiting the degree of this threat, by the appropriate use of scientific and technological achievements.

§ 2. The employer will keep a register of works exposing employees to the action of harmful biological factors and a register of employees performing such works.

§ 3. The minister for health matters, in co-operation with the minister for labour matters, taking into account the varied effects of biological factors on the human body and the need to take necessary protective measures against dangers resulting from working under the conditions of exposure to the effects of biological factors, will determine, in an executive regulation:

- 1) a classification and list of harmful biological factors,
- 2) a list of works exposing employees to the effects of biological factors,
- 3) the detailed conditions of protecting employees against the dangers caused by the harmful biological factors, including types of measures required to ensure protection of the health and life of employees exposed to these factors, the scope of applying such measure and the conditions and the procedure of monitoring the state of the exposed employees' health,
- 4) the method of keeping and registering the work and employees referred to in § 2, and the method of keeping and transferring these registers to the relevant entities for diagnosing and confirming occupational diseases.

Art. 223. Ionising radiation.

§ 1. The employer is obliged to protect employees against ionising radiation, from artificial and natural sources present in the work environment.

§ 2. A dose of ionising radiation from natural sources received by an employee at work under the conditions of exposure to this radiation, must not exceed the maximum doses determined in separate provisions for artificial sources of ionising radiation.

Art. 224. Prevention of sudden danger.

§ 1. An employer conducting activity that involves a sudden danger to the health and life of employees must take measures preventing the danger.

§ 2. In the case referred to in § 1, the employer is obliged to ensure:

- 1) rescue devices and equipment corresponding to the type of danger, and their use by properly trained people,
- 2) the provision of first aid to the injured.

§ 3. The provisions of § 1 and 2 do not violate the requirements determined in separate provisions on catastrophes and other extraordinary dangers.

Art. 225. Ensuring safeguards.

§ 1. The employer must ensure that works involving a particular danger to human health or life are performed by at least two people, for the purpose of ensuring proper safeguards.

§ 2. The employer draws up a list of works referred to in § 1, after consultation with employees or their representatives, taking into account the provisions issued under Article 237¹⁵.

Rozdział VI. Preventative health protection.

Art. 226. Professional risk. The employer must:

- 1) evaluate and provide documentation on any professional risk connected with the work performed, and must apply necessary preventative measures decreasing the risk,
- 2) inform employees about any professional risk related to the work performed, as well as on the principles of protection against dangers.

Art. 227. Prevention of occupational diseases.

§ 1. The employer is obliged to apply measures preventing occupational diseases and other diseases related to the work performed, and in particular to:

- 1) ensure the permanent efficiency of facilities limiting or eliminating factors of the work environment that are harmful to health, as well as facilities for measuring these factors,
- 2) carry out any tests and measurements of factors that are harmful to health, to register and store the results of such tests and measurements, as well as make them accessible to employees, all at his own expense.

§ 2. The minister for health matters, taking into account the varied effects on the human body of harmful factors in the work environment, as well as the need to carry out necessary protective measures against these factors, will determine, in an executive regulation:

- 1) the procedure, methods, type and frequency of the conducted tests and measurements, referred to in § 1 point 2,
- 2) cases where it is necessary to conduct measurements constantly,
- 3) criteria that the laboratories conducting the tests and measurements should meet,
- 4) how the records of the results of these tests and measurements should be registered and stored,
- 5) specimen documents and the procedure of making the results of the tests and measurements available to the employees.

Art. 228. Commission for the Maximum Permissible Concentration of Factors.

§ 1. The President of the Council of Ministers will appoint, in an executive regulation, the Interministerial Commission for the Maximum Permissible Concentration and Intensity of Factors Harmful to Health in the Work Environment, will determine its rights and the procedure for performing its tasks.

§ 2. The tasks of the Commission referred to in § 1 include:

- 1) providing the Minister of Labour and Social Policy with its conclusions on the levels of the maximum permissible concentration and intensity of factors harmful to health in the work environment - for the purposes determined in § 3,
- 2) initiating research work necessary to perform the tasks referred to in point 1.

§ 3. The Minister of Labour and Social Policy, in co-operation with the Minister of Health and Social Welfare, will determine, in an executive regulation, the list of the maximum permissible concentrations and intensity of the factors harmful to health in the work environment.

Art. 229. Medical examinations.

§ 1. Initial medical examinations must be given to:

- 1) anyone starting work,
- 2) young employees transferred to other job positions, and other employees transferred to positions with factors that are harmful to health or with strenuous conditions. However, anyone returning to work in the same position or starting in a position with the same conditions of work under a subsequent employment contract concluded within 30 days after the termination or expiry of a previous employment contract with this employer, will not be subject to an initial medical examination.

§ 2. Employees are subject to a periodic medical examination. If an employee is unable to work for longer than 30 days due to illness, the employee is also subject to a medical check-up to determine his ability to perform work in the current position.

§ 3. Periodic medical examinations and medical check-ups are conducted, as far as possible, within working hours. Employees retain the right to remuneration for the time they are not at work in connection with the conducted medical examination, and if it is necessary to travel to another location for the examination, the employee is entitled to receive money to cover travelling expenses in accordance with the rules applicable to business trips.

§ 4. The employer may not allow work to be performed by an employee who does not have an up-to-date medical certificate stating that there are no reasons why the employee should not work on a specified job position.

§ 5. An employer whose employees work under conditions of exposure to carcinogenic substances and factors, as well as dust causing fibrosis, is obliged to ensure that these employees undergo periodic medical examinations, including:

- 1) after they cease working in contact with these substances, factors and dust,
- 2) after the termination of an employment relationship, at the request of the employee concerned.

§ 6. The examinations referred to in § 1, 2 and 5 are conducted at the employer's expense. The employer must additionally bear other costs of preventative health care of employees, as necessary in relation to the conditions of work.

§ 7. The employer must keep all reports issued on the basis of medical examinations referred to in § 1, 2 and 5.

§ 8. The Minister of Health and Social Welfare, in co-operation with the Minister of Labour and Social Policy will determine, in an executive regulation:

- 1) the manner and scope of the medical examinations referred to in § 1, 2 and 5, and the frequency of periodic examinations, as well as the method of documenting and controlling medical examinations,
- 2) the manner of issuing and keeping medical certificates for the purposes provided for in the Labour Code and the provisions issued on the basis of the Code,
- 3) the scope of preventative health care referred to in § 6 sentence two,
- 4) additional qualification requirements that should be met by doctors conducting the examinations referred to in § 1, 2 and 5, as well as those responsible for preventative health care referred to in § 6 sentence two.

Art. 230. Symptoms of an occupational disease.

§ 1. If it is recognised that an employee shows symptoms indicating an occupational disease, the employer is obliged, on the basis of a medical certificate, within the prescribed period of time and for the time determined in this certificate, to transfer the employee to another position not exposing him to the factor causing the symptoms.

§ 2. If the transfer to another position results in a reduction of remuneration, the employee is entitled to a supplementary bonus for a period not exceeding 6 months.

Art. 231. Transfer to an appropriate position. If an employee has a doctor's certificate stating that the employee is not able to perform the current work as a result of an accident at work or an occupational disease, but is not incapable of performing work in the meaning of the provisions on retirement pensions and pensions from the Social Insurance Fund, then the employer must transfer the employee to an appropriate position. The provision of Article 230 § 2 applies accordingly.

Art. 232. Preventative meals and drinks. The employer must ensure that employees working under particularly strenuous conditions have free of charge meals and drinks, as appropriate and if necessary for preventative reasons. The Council of Ministers will determine, in an executive regulation, the types of meals and drinks, as well as requirements that must be met, and the cases and terms of their provision.

Art. 233. Hygienic conditions of work. The employer must ensure that employees have appropriate hygiene and sanitary equipment, and must provide them with necessary items of personal hygiene.

Rozdział VII. Accidents at work and occupational diseases.

Art. 234. Duties of an employer in the event of an accident at work.

§ 1. In the event of an accident at work, the employer must undertake necessary measures to eliminate or limit the danger, must ensure that first aid is provided to injured persons, and must establish, following the procedure provided, the circumstances and causes of the accident, and apply appropriate measures preventing similar accidents.

§ 2. The employer must immediately notify the relevant district labour inspector as well as the prosecutor, if there is a fatal, serious or group accident at work, or any other accident resulting in the mentioned effects if it is work-related and may be considered an accident at work.

§ 3. The employer must keep a register of accidents at work.

§ 3¹. The employer must keep the records related to establishing the circumstances and the causes of an accident at work, along with all the other documentation related to the accident, for 10 years.

§ 4. The costs connected with establishing the circumstances and causes of accidents at work are borne by an employer.

Art. 235. Diagnosing an occupational disease.

§ 1. The employer has a duty to immediately notify the relevant State sanitary inspector and the relevant district labour inspector of any suspicion of an occupational disease.

§ 2. The duty referred to in § 1 also applies to the doctor of the entity relevant for diagnosing an occupational disease referred to in the provisions issued under Article 237 § 1 point 6.

§ 2¹. If there is any suspicion of an occupational disease:

- 1) a doctor,
- 2) a doctor-dentist who, while performing his professional duties, suspects an occupational disease in a patient - directs the employee to be examined for the purpose of issuing a decision on diagnosing an occupational disease, or on the lack of grounds for such a diagnosis.

§ 2². A suspicion of an occupational disease may also be reported by an employee or a former employee who suspects that the symptoms he shows may indicate such a disease; a current employee reports the suspicion to a doctor who conducts preventative health care over him.

§ 3. If an employee is diagnosed with an occupational disease, the employer is obliged to:

- 1) state the reasons for the occupational disease, as well as the character and the scale of the risk of the disease, acting in co-operation with the relevant State sanitary inspector,
- 2) immediately take steps to eliminate the factors causing the occupational disease, and to apply other necessary preventive measures,
- 3) ensure that medical recommendations are complied with.

§ 4. The employer is obliged to keep a register of diagnosed occupational diseases and suspected occupational diseases.

§ 5. The employer transfers the report on the effects of the occupational disease to the institution of labour medicine specified in the provisions issued under Article 237 § 1¹, as well as to the relevant State sanitary inspector.

Art. 235¹. Definition. An occupational disease is one of the diseases mentioned on the list of occupational diseases, if, following an evaluation of the condition of work, it can be confirmed unquestionably or with a high probability that the disease was caused due to factors harmful to health present in the work environment, or in relation to the manner of performing work, hereinafter referred to as „professional exposure.

Art. 235². Documentation. Diagnosing an occupational disease in an employee, or a former employee, may occur within his employment period under the circumstances of professional exposure, or after the employment under such exposure, provided the documented symptoms of disease were revealed within the period of time determined in the list of occupational diseases.

Art. 236. Analysis of reasons for accidents at work and diseases. The employer is obliged to analyse regularly the reasons for accidents at work, for occupational diseases and for other diseases connected with conditions of the work environment and to apply appropriate preventive measures on the basis of such analyses.

Art. 237. Delegation.

§ 1. The Council of Ministers will determine in an executive regulation:

1) the manner and the procedures for establishing the circumstances and causes of accidents at work, as well as the manner of providing documentation and the scope of information to be included in the register of accidents at work,

2) the members of the post-accident investigation team,

3) the list of occupational diseases,

4) the period of time after employment under professional exposure ended earlier, within which the appearance of documented disease symptoms is deemed confirmation of an occupational disease,

5) the manner and the procedures related to the notification of a suspicion, diagnosing and confirming occupational diseases,

6) the authorities relevant for diagnosing occupational diseases - taking into account the present knowledge in the realm of pathogenesis and epidemiology of diseases caused by factors harmful to the human being present in the work environment, and following the need to prevent accidents at work and occupational diseases.

§ 1¹. The Council of Ministers will indicate, in an executive regulation, an institution of labour medicine to which an employer transfers a report on the effects of an occupational disease, as well as the time period within which it is to be transferred, taking into account the specialisation of the institution and the type of tests it conducts.

§ 2. The minister for labour matters will determine, in an executive regulation, a specimen report for establishing the circumstances and causes of an accident at work containing details on the injured person, members of the post-accident investigation team, the accident and its effects, confirmation on whether or not the accident is an accident at work, as well as motions and recommended preventive measures, as well as the instructions for parties of the post-accidental proceedings.

§ 3. The minister for health matters will determine, in an executive regulation, a specimen statistical card for an accident at work, considering the data in relation to the employer, the injured person, the accident at work, and its effects, as well as the manner and dates of preparing the card and transferring it to the relevant statistical office.

§ 4. The minister for health matters will determine, in an executive regulation:

1) how documentation on occupational diseases and their effects should be kept, and how the register of occupational diseases should be kept, considering in particular the specimen documents applied in proceedings connected with such diseases, as well as the data covered by the register,

2) instructions for diagnosis and certification, as well as the criteria of diagnosing occupational diseases, considering in particular the type of disease as well as the harmful and strenuous factors causing the diseases.

Art. 237¹. Reference.

§ 1. An employee who has suffered from an accident at work, or an occupational disease referred to in the list referred to in Article 237 § 1 point 3, is entitled to the benefits from social insurance specified in separate provisions.

§ 2. An employee who has suffered from an accident at work is entitled to compensation from the employer for any loss or injury in connection with damage to his personal items or items necessary to perform work, except for a loss or damage to vehicles and money.

Rozdział VIII. Training.

Art. 237². Health and safety at work in the school syllabus. The Minister of National Education is obliged to include issues of health and safety at work, along with ergonomics, in the school syllabus, having agreeing upon the scope of such matters with the Minister for Labour and Social Policy.

Art. 237³. Allowance to perform work.

§ 1. An employee will not be allowed to perform work if he does not hold the qualifications or abilities necessary to perform the work, as well as an adequate knowledge of provisions and principles of health and safety at work.

§ 2. The employer must ensure training for an employee concerning health and safety at work before allowing him to work, and must provide periodic training in this area. This training is not required if the employee is returning to work in the same position he occupied with a given employer directly before concluding a subsequent employment contract with this employer.

§ 2¹. The employer must participate in the training concerning health and safety at work as necessary given the employer's duties. The training should be repeated periodically.

§ 3. The training referred to in § 2 will be conducted during working hours and at the employer's expense.

Art. 237⁴. Obligation to inform employees about directives concerning health and safety at work.

§ 1. The employer must ensure employees are familiar with the provisions and principles of health and safety at work concerning the work they perform.

§ 2. The employer is obliged to issue detailed instructions and directives concerning health and safety at workstations.

§ 3. Each employee must confirm, in writing, that he or she is familiar with the provisions and principles of health and safety at work.

Art. 237⁵. Delegation. The minister for labour matter will determine, in an executive regulation, the detailed principles of health and safety at work training, the scope of the training, requirements concerning the contents and the implementation of the syllabus of the training, the manner of providing documentation for the training as well as the cases in which the employers or employees may be released from specified types of training.

Rozdział IX. Measures of individual protection and working clothing and shoes.

Art. 237⁶. Measures of individual protection.

§ 1. The employer is obliged to provide employees with free of charge measures of individual protection against the effects of factors in the work environment that are hazardous and harmful to health, and must inform the employee about the methods of using those measures.

§ 2. *(deleted)*

§ 3. The employer is obliged to provide employees with measures of individual protection meeting conformity evaluation conditions determined in separate provisions.

Art. 237⁷. Working clothing and shoes.

§ 1. The employer is obliged to provide employees with free of charge working clothing and shoes meeting criteria specified in the Polish standards:

- 1) if the employee's own clothing may be liable to destruction or heavy soiling,
- 2) in respect of technological, sanitary or health and safety requirements.

§ 2. The employer may determine the positions on which employees may choose to use their own working clothing and shoes, provided they meet the criteria of health and safety at work.

§ 3. The provision of § 2 does not apply to positions related to the direct service of machines and other technical equipment, or work involving heavy soiling or contamination of working clothing and shoes with chemical or radioactive agents or with biologically contagious materials.

§ 4. An employee who uses his own working clothing and shoes, in accordance with § 2, will receive from the employer the cash equivalent at the current prices.

Art. 237⁸. Determination of the principle of using protection measures.

§ 1. The employer must determine the types of measures of individual protection and working clothing and shoes necessary for specified positions in accordance with Article 237⁶ § 1 and Article 237⁷ § 1, as well as the anticipated periods of using the working clothing and shoes.

§ 2. The measures of individual protection, working clothing and shoes referred to in Article 237⁶ § 1 and Article 237⁷ § 1, constitute the property of the employer.

Art. 237⁹. Allowance to perform work.

§ 1. The employer must not allow an employee to work without the measures of individual protection, clothing and working shoes required to be used on a given position.

§ 2. The employer must guarantee that the applied measures of individual protection, clothing and working shoes have protective and functional characteristics, and must ensure that they are washed, maintained, repaired, dusted and decontaminated as appropriate.

§ 3. If the employer cannot ensure that working clothing is washed, this can be performed by the employee, provided the employer reimburses the employee's expenses in the form of a cash equivalent.

Art. 237¹⁰. Storing, washing and maintenance.

§ 1. The employer is obliged to ensure that the measures of individual protection, clothing and working shoes that, as a result of being used at work, have been contaminated with chemical or radioactive agents or with biologically contagious material, are stored only in places designated by the employer.

§ 2. Employees may not be assigned to wash, maintain, dust or decontaminate the items referred to in § 1.

Rozdział X. The service for health and safety at work.

Art. 237¹¹. The health and safety at work service.

§ 1. An employer with more than 100 employees must create a health and safety at work service to perform advisory and supervisory functions concerning health and safety at work; an employer who employs up to 100 employees assigns health and safety at work service tasks to an employee performing other work. An employer who has completed the training necessary to carry out the tasks of the health and safety at work service may perform the tasks of the service himself, if:

- 1) he employs up to 10 employees, or
- 2) he employs up to 20 employees and has been qualified in a group of activity no higher than the third category of risk in the meaning of the provisions on social insurance in relation to accidents at work and occupational diseases.

§ 2. If there are no competent employees, the employer may assign the performance of health and safety at work service tasks to specialists from outside the work establishment. An employee of the health and safety at work service, as well as an employee performing other work who has been assigned to perform the health and safety at work service tasks referred to in § 1, as well as a specialist from outside the work establishment, must meet the qualification requirements necessary to perform health and safety at work service tasks, and must complete the training for employees of the health and safety at work service.

§ 3. An employee of the health and safety at work service, as well as an employee performing other work who has been assigned to perform the tasks of the service, may not bear any negative consequences for performing health and safety at work service tasks.

§ 4. The relevant labour inspector may order the establishment of health and safety at work service, or an increase in the number of employees on this service if it is justified by confirmed occupational dangers.

§ 5. The Council of Ministers will determine, in an executive regulation:

- 1) the detailed scope of action, rights, organisation, number as well as subordination of the health and safety at work service,
- 2) qualifications necessary to perform the health and safety at work service tasks.

Rozdział XI. Consultations on health and safety at work and the health and safety at work commission.

Art. 237^{11a}. Consultations concerning health and safety at work.

§ 1. The employer consults with employees, or with their representatives all the actions concerning health and safety at work, in particular related to:

- 1) changes in work organisation and the equipment of job positions, the organisation of introducing new technological processes as well as chemical substances and their mixtures, if they can pose a threat to the health and life of employees,
- 2) an evaluation of the professional risk present in performing specified works, and informing the employees about the risk,
- 3) the establishment of the health and safety at work service, or assigning the performance of the tasks of this service to other people, as well as appointing employees to perform first aid, and within the scope of fire protection activities and the evacuation of employees,
- 4) granting employees measures of individual protection as well as working clothing and shoes,
- 5) training employees on health and safety at work issues.

§ 2. Employees, or their representatives, may make suggestions to the employer on reducing or removing the occupational dangers.

§ 3. The employer must ensure proper conditions for consultations, and in particular ensures that they take place in working hours. For the time not worked in connection with participation in the consultations, employees or their representatives retain the right to remuneration.

§ 4. Upon a justified request from the employees or their representatives concerning danger to the health and life of employees, the labour inspectors of the State Labour Inspectorate will carry out inspections and apply the legal means provided for by the provisions on the State Labour Inspectorate.

§ 5. If there is a health and safety at work commission at the employer, the consultations referred to in § 1 may be conducted by this commission, and the rights referred to in § 2 and 4 will be due to the employees or their representatives who are members of the commission.

§ 6. Employees and their representatives may not bear any negative consequences with regard to the activity referred to in § 1, 2 and 4. This also applies to the employees and their representatives referred to in § 5.

Art. 237¹². Health and safety at work commission.

§ 1. An employer with more than 250 employees must appoint a health and safety at work commission as an advisory and opinion-making body. The health and safety at work commission is made up of equal numbers of representatives of the employer, including the employees of the health and safety at work service and a doctor conducting preventative health care over the employees, and representatives of employees, including a social labour inspector.

§ 2. The chairperson of the health and safety at work commission is the employer or a person authorised by him, and a deputy chairperson - a social labour inspector or a representative of the employees.

Art. 237¹³. Tasks of the health and safety at work commission.

§ 1. The tasks of the health and safety at work commission are to verify the conditions of work, carry out a periodic evaluation of the state of health and safety at work, giving an opinion on the measures taken by the employer to prevent accidents at work and occupational diseases, making suggestions on improving the conditions of work, and co-operating with the employer over his duties towards health and safety at work.

§ 2. Sessions of the health and safety at work commission will take place during working hours, and at least once a quarter. For the time not worked in relation to participation at sessions of the health and safety at work commission an employee retains the right to remuneration.

§ 3. To carry out the tasks listed in § 1, the health and safety at work commission may use the expertise or opinion of specialists from outside the work establishment if it has been agreed with the employer and at the employer's expense.

Art. 237^{13a}. Procedure for choosing representatives of employees. The representatives of the employees referred to in Article 237^{11a} and Article 237¹² are chosen by enterprise trade unions, and if there are no trade unions at the employer - by employees, in the standard method adopted in the work establishment.

Rozdział XII. Obligations of bodies executing supervision over enterprises or other state or local government

organisational units.

Art. 237¹⁴. Duties of the supervisory bodies. Bodies executing supervision over enterprises or other state or local government organisational units are obliged to take measures on the account of shaping conditions of health and safety at work, and in particular to:

- 1) provide assistance to enterprises and organisational units performing health and safety at work tasks,

- 2) at least once a year, carry out an evaluation of the state of health and safety at work in enterprises and organisational units, as well as to determine areas of improvement,
- 3) initiate and conduct scientific examinations concerning health and safety at work, as necessary and if possible.

Rozdział XIII. Provisions on health and safety at work concerning the performance of work in various branches of work.

Art. 237¹⁵. Delegation.

§ 1. The Minister of Labour and Social Policy, in co-operation with the Minister of Health and Social Care, will determine, in an executive regulation, generally binding provisions on health and safety at work concerning work performed in various branches of work.

§ 2. The ministers in charge of specified branches of work, or types of work, in co-operation with the Minister of Labour and Social Policy and the Minister of Health and Social Care, will determine, in an executive regulation, provisions of health and safety at work concerning these branches of works or those works.

Dział Jedenasty. Collective Labour Agreements.

Rozdział I. General provisions.

Art. 238. Definitions.

§ 1. For the purposes of the provisions of this Section:

- 1) a multi-enterprise trade union includes national trade unions, federations of trade unions and national confederations of trade unions,
- 2) a trade union representing employees includes a trade union uniting employees, for whom an agreement will be concluded. This also applies to federations of trade unions comprising such trade unions, as well as national confederations of trade unions uniting trade unions or federations of trade unions.

§ 2. The provisions of this Chapter applying to:

- 1) an agreement - apply respectively to multi-enterprise agreements and enterprise agreements;
- 2) employers - apply respectively to the employer.

Art. 239. Parties to the agreement.

§ 1. An agreement is concluded on behalf of all employees employed by employers covered by their provisions, unless the parties to the agreement decide otherwise in the agreement.

§ 2. An agreement may cover people working on a basis other than that of an employment relationship; the agreement may also cover pensioners and people receiving a disability pension.

§ 3. An agreement may not be concluded for:

- 1) members of the civil service corps,
- 2) employees of State offices employed on the basis of a nomination or an appointment,
- 3) employees of local government authorities employed on the basis of an election, a nomination or an appointment in:
 - a) marshals' offices,
 - b) powiat starostas,
 - c) local authority offices,
 - d) offices (or equivalents) of unions of local government units,
 - e) offices (or equivalents) of administrative units of local government units,
- 4) judges and prosecutors.

Art. 240. Contents of the agreement.

§ 1. Agreements must define:

- 1) conditions to be met by the contents of an employment relationship, subject to § 3 below,
- 2) mutual obligations of the parties to the agreement, including the application of the agreement and the observance of its provisions.

§ 2. Agreements may define other matters than those referred to in § 1, if not regulated by unconditionally binding provisions of labour law.

§ 3. Agreements may not violate the rights of third parties.

§ 4. Agreements for employees of State budget entities and local government budget establishments may be concluded only within the scope of financial means available to them, including those for remuneration fixed under separate provisions.

§ 5. An application to register an agreement concluded for employees of State budget entities and local government budget establishments must contain a declaration from the authority body that established the entity or has taken over the functions of this authority body, on meeting the requirement referred to in § 4.

Art. 241¹. Mutual obligations of the parties. In defining their mutual obligations concerning the application of an agreement, the parties may establish in particular:

- 1) the procedure of publishing the agreement and circulation of its contents;
- 2) procedures for a periodical evaluation of how the agreement is functioning;
- 3) procedures for interpreting the contents of the agreement and for settling disputes between the parties in this regard.

4) (deleted)

Art. 241². Negotiations.

§ 1. Agreements are concluded through negotiation.

§ 2. The subject initiating the conclusion of an agreement is obliged to inform every trade union that represents employees for whom the agreement will be concluded, so that the agreement can be negotiated jointly by all the trade unions.

§ 3. A party entitled to conclude an agreement may not refuse another party's request to enter into negotiations:

- 1) to conclude an agreement for employees not covered by any agreement;
- 2) to amend an agreement justified by a significant change in the economic or financial situation of the employer, or a deterioration in the material situation of the employees;
- 3) if the request was made not earlier than 60 days prior to the expiry of the agreement, or after the date of the termination notice.

Art. 241³. Principle of loyalty.

§ 1. Each party is obliged to negotiate in good faith and with respect of the just interests of the other party. This means, in particular:

- 1) to make allowances for demands by a trade union justified by the economic situation of the employers;
- 2) to restrain from making demands that obviously exceed the financial possibilities of the employer;
- 3) to respect the interests of employees not covered by the agreement.

§ 2. The parties to the agreement may determine procedures for settling disputes related to the subject of negotiations, or other controversial issues that may arise during the negotiations. In this case, the provisions relating to settling collective disputes are not applied, unless the parties decide to apply them to a certain extent.

Art. 241⁴. Obligation to provide information on the economic situation.

§ 1. The employer is obliged to provide information on its economic situation to trade union negotiators while conducting the negotiations, if it is necessary to hold responsible negotiations. In particular, this obligation applies to information reported to the Main Statistical Office (*Główny Urząd Statystyczny*).

§ 2. Trade union representatives must not disclose information provided by the employer constituting corporate secrets within the meaning of provisions on combating unfair competition.

§ 3. At the request of any party, an expert may be appointed to give his or her opinion on matters relating to the subject of negotiations. The costs of such expertise are covered by the party that requested that the expert be appointed, unless the parties decide otherwise.

§ 4. The provisions of § 1-3 do not violate provisions on the protection of secret information.

Art. 241⁵. Form; term of agreement validity.

§ 1. Agreements must be concluded in writing, for an indefinite or a definite period of time.

§ 2. Agreements must specify the scope of its validity as well as the registered offices of the parties to the agreement.

§ 3. Prior to the expiry of the period of an agreement concluded for a definite period of time, the parties may extend its validity for a definite period of time, or recognise the agreements as concluded for an indefinite period of time.

Art. 241⁶. Interpretation.

§ 1. The parties to an agreement will jointly interpret its contents.

§ 2. The joint interpretation of the contents of the agreement is also binding on parties to an arrangement concluded on the basis of the agreement. The interpretation of the agreement must be provided to the parties to such an arrangement.

Art. 241⁷. Termination of an agreement.

§ 1. Agreements are terminated:

- 1) by the unanimous declaration of the parties to the agreement,
- 2) upon the expiry of the period for which it has been concluded;
- 3) upon the expiry of the period of notice served by one of the parties.

§ 2. A declaration of the parties on the termination of an agreement and a termination notice must be made in writing.

§ 3. The period of notice for an agreement is three calendar months, unless the parties decide otherwise in the agreement.

§ 4. (abrogated)

§ 5. (deleted)

Art. 241⁸. Application of an agreement upon the transfer of a work establishment.

§ 1. For one year after the transfer of a work establishment or its part to a new employer, the employees are covered by the provisions of the agreement that applied to them before the transfer, unless separate provisions provide otherwise. The provisions of such an agreement apply in the form binding on the date of transferring the work establishment or its part to a new employer. The employer may apply to such employees more favourable conditions than those resulting from the current agreement.

§ 2. After the current agreement ceases to apply, the conditions of employment contracts, or of other acts constituting a basis for the establishment of an employment relationship resulting from that agreement, continue to apply until the expiry of the termination notice period for the application of these conditions. The provision of Article 241¹⁻³ § 2 sentence two applies.

§ 3. If, in the cases referred to in § 1, the new employer takes over also other people covered by an agreement with the previous employer, the new employer applies the provisions of that agreement concerning these people for a period of one year from the date of the transfer.

§ 4. If employees were covered by a multi-enterprise agreement before their transfer to a new employer also covered by that agreement, the provisions of § 1-3 apply to the single enterprise agreement.

Art. 241⁹. Amendments to an agreement.

§ 1. Amendments to an agreement are introduced by way of additional reports. Provisions applicable to the agreement apply accordingly to the additional reports.

§ 2. If the agreement was concluded by more than one trade union, for as long as it is valid, any action concerning this agreement must be taken by the trade unions that concluded the agreement, subject to § 3 and 4.

§ 3. The parties to the agreement may consent to a trade union that did not conclude the agreement acceding to the agreement.

§ 4. A trade union whose representative character has been ascertained on the basis of Article 241¹⁷ or Article 241^{25a} may accede to the rights and duties of a party to the agreement by making an appropriate declaration before the parties to the agreement. Article 241^{25a} § 375 applies accordingly to the enterprise trade union.

§ 5. Information on a trade union acceding to the rights and duties of a party to the agreement must be entered into the register of agreements.

Art. 241¹⁰. Arrangement on the application of an agreement.

§ 1. Parties who are entitled to conclude an agreement may enter into an arrangement on the application of all or any part of an agreement to which they are not parties. The provisions relating to the agreement apply accordingly to the arrangement.

§ 2. The authority that registers the arrangement referred to in § 1 will inform the parties to the agreement about the registration of the arrangement.

§ 3. Amendments to the provisions of the agreement by the parties that concluded it will not result in amendments to the contents of an arrangement referred to in § 1.

Art. 241¹¹. Registration of agreements.

§ 1. Agreements must be entered into a register kept by the following:

- 1) for multi-enterprise agreements, the Minister of Labour and Social Policy;
- 2) for enterprise agreements, the relevant district labour inspector.

§ 2. A lawfully concluded agreement must be registered within:

- 1) three months - for multi-enterprise agreements;
- 2) one month - for enterprise agreements; - from when the application was filed by one of the parties to the agreement.

§ 3. If the provisions of the agreement do not comply with the law, the registering authority may:

- 1) register the agreement without the provisions, with the consent of the parties to the agreement;
- 2) call upon the parties to the agreement to make appropriate amendments to the agreement within 14 days.

§ 4. If the parties to the agreement do not express their consent to the agreement being registered without the unlawful provisions, or if they fail to make appropriate amendments to the agreement within the prescribed period of time, the registering authority will refuse to register the agreement.

§ 5. Within 30 days from the notification of the refusal to register, an appeal can be made by the parties to the agreement, as follows:

- 1) parties to a multi-enterprise agreement, to the Regional Court - the Court of Labour and Social Insurance in Warsaw;
- 2) parties to an enterprise agreement, to a District Court - Labour Court appropriate for the employer's registered office. The court examines the case in accordance with the provisions of the Code of Civil Proceedings on extra-judicial proceedings.

§ 5¹. Within 90 days from registering the agreement, an entity with a legal interest may complain to the authority that registered the agreement that the agreement was concluded in violation of the provisions on the conclusion of collective labour agreements. The complaint must be made in writing and must contain justification.

§ 5². Within 14 days from receiving the complaint referred to in § 5¹, the registering authority, calls upon the parties to the agreement to present documents and to make explanations necessary for the complaint to be dealt with.

§ 5³. If it is confirmed that the agreement was concluded in violation of the provisions on the conclusion of collective labour agreements, the registering authority calls upon the parties to the agreement to remedy the breaches, where possible.

§ 5⁴. Where:

- 1) parties to the agreement do not present the documents and explanations referred to in § 5² within a prescribed period of time not shorter than 30 days, or
- 2) parties to the agreement do not remedy the breaches referred to in § 5³ within a prescribed period of time not shorter than 30 days, or if the breaches cannot be remedied, then the registering authority deletes the agreement from the register. The provision of § 5 applies respectively.

§ 5⁵. Conditions of employment contracts or of other forms of employment, resulting from an agreement deleted from the register, are in force until the end of the termination notice of these conditions. The provision of Article 241¹³ § 2 sentence two applies.

§ 6. In order to ensure uniform principles of the registration of collective labour agreements and of the keeping of the register, the minister for labour matters will determine, in an executive regulation, the specific procedures for registering collective labour agreements, and in particular the conditions for filing applications to make entries into the register, and for the registration of agreements, the scope of information covered by these applications, the documents to be enclosed to the applications, the consequences of not meeting the conditions concerning the form and contents of the applications, as well as the manner of deleting the agreement from the register, and the manner of keeping the register of agreements and of the registry files, standard registration clauses and registration cards.

Art. 241¹². Entry into force of an agreement.

§ 1. An agreement enters into force on the date determined therein, though not earlier than the date of registration.

§ 2. The employer is obliged to:

- 1) inform employees about the agreement entering into force, about amendments to the agreement and about the notice of termination of the agreement and about the termination of the agreement,
- 2) provide the enterprise trade union with the necessary number of copies of the agreement,
- 3) upon the request of an employee, provide the text of the agreement and explain its contents.

Art. 241¹³. Adjusting the conditions of an employment contract to the provisions of an agreement.

§ 1. Upon the agreement entering into force, more advantageous provisions of an agreement will, by operation of law, replace the conditions of an employment contract or of other forms of employment that result from the existing provisions of labour law.

§ 2. The provisions of an agreement that are less advantageous for employees will be introduced by serving employees a notice of termination of the current conditions of an employment contract or of other forms of employment. Serving a notice of termination of the current conditions of an employment contract or of other forms of employment is not subject to provisions limiting the possibility of serving a notice of termination of the current conditions of an employment contract or of other forms of employment.

Art. 241¹ – (*deleted*)

Rozdział II. A multi-enterprise collective labour agreement.

Art. 241¹⁴. Parties to a multi-enterprise agreement.

§ 1. A multi-enterprise collective labour agreement, hereinafter referred to as a „multi-enterprise agreement”, is concluded by:

- 1) the appropriate statutory body of a multi-enterprise trade union, acting for the employees;
- 2) the appropriate statutory body of an employers' association, acting for the employers - on behalf of the employers united in the association.

§ 2. (*deleted*)

§ 3. (*deleted*)

Art. 241^{14a}. Federation, confederation.

§ 1. If the multi-enterprise trade union representing employees for whom a multi-enterprise agreement is to be concluded, is a member of a federation of trade unions or of a national confederation, only this multi-enterprise trade union is entitled to conclude an agreement, subject to § 2.

§ 2. A national confederation of trade unions negotiates and concludes a multi-enterprise agreement in place of the multi-enterprise trade unions representing employees for whom the agreement is to be concluded, the trade unions of which are members of the national confederation of trade unions, and the trade unions of which have become representative under Article 241¹⁷ § 3, however only if at least one of the remaining multi-enterprise trade unions negotiating the conclusion of the agreement has filed a justified written request with the national confederation of trade unions in this matter. The requested confederation may not refuse to negotiate; a refusal means that all the trade unions that would be represented by the confederation lose their representative status for the purposes of a particular multi-enterprise agreement.

§ 3. If the employers' association covering employers who are to be covered by a multi-enterprise agreement is a member of a federation or confederation, the association directly covering the employers has the right to conclude the agreement.

Art. 241¹⁵. Initiative to conclude a multi-enterprise agreement. The right to initiate the conclusion of a multi-enterprise agreement lies with:

- 1) employers' associations entitled to conclude agreements on the part of the employers;
- 2) any multi-enterprise trade union representing the employees for whom the agreement will be concluded.

Art. 241¹⁶. Representation of employees.

§ 1. If the employees covered by the multi-enterprise agreement are represented by more than one trade union, then the agreement is negotiated by their joint representation, or by individual trade unions acting together.

§ 2. If, within the time period designated by the entity initiating the conclusion of a multi-enterprise agreement, not shorter than 30 days from the date of announcing the initiative to conclude the agreement, not all the trade unions commence negotiations in the manner defined in § 1, the trade unions that have commenced negotiations have the right to negotiate the agreement. Negotiations are conducted in the manner defined in § 1.¹⁷

§ 3. At least one representative multi-enterprise trade union, within the meaning of Article 241¹⁷, must participate in the negotiations referred to in § 2.

§ 4. If a multi-enterprise trade union is established prior to the conclusion of an agreement, it has the right to commence negotiations.

§ 5. A multi-enterprise agreement is concluded by all the trade unions that negotiated the agreement, or at least all the representative trade unions within the meaning of Article 241¹⁷ participating in the negotiations.

Art. 241¹⁷. Representative trade union.

§ 1. A representative trade union is a multi-enterprise trade union:

- 1) representative under the Act on the Tripartite Commission for Socio-Economic Matters and Voivodship Commissions of Social Dialogue, or
- 2) associating at least 10 per cent of the total number of employees covered by the scope of its statutes, but not less than 10,000 employees; or
- 3) associating the highest number of employees for whom the specified multi-enterprise agreement is to be concluded.

§ 2. A multi-enterprise trade union referred to in § 1 points 2 and 3 files a request to be recognised as representative with the Regional Court in Warsaw, which issues its decision within 30 days of the request being filed, in accordance with the provisions of the Code of Civil Proceedings on extra-judicial proceedings.

§ 3. If a national confederation of trade unions is recognised as representative, the national trade unions and trade union federations under it are also considered as representative, by operation of law.

Art. 241¹⁸. Extension of the application of an agreement.

§ 1. Upon a joint request of an employers' association and multi-enterprise trade unions that concluded a multi-enterprise agreement, the minister for labour matters may - if necessary for important social interests - issue an executive regulation extending the scope of application of a multi-enterprise agreement, or parts of it, to employees who are employed at an employer not covered by any multi-enterprise agreement but conducting the same business activity, or a business activity similar to the activity of employers covered by this agreement, established on the basis of separate law provisions concerning classification of business activity, having consulted this employer or an employers' association pointed to by him, and an enterprise trade union, if there is one at the employer.

§ 2. A request to extend the application of the multi-enterprise agreement must indicate the name of the employer and the registered office of the employer, as well as justification for the need to extend the application of a multi-

enterprise agreement, and must include information and documents necessary to confirm the requirements referred to in § 1 are met.

§ 3. *(abrogated)*

§ 4. The application of the multi-enterprise agreement can only be extended until an employer is covered by another multi-enterprise agreement.

§ 5. The provisions of § 1 and 2 and Article 241⁸ apply accordingly to a request to discontinue the extension of the application of the agreement.

Art. 241¹⁹. Organisational transformations of the parties to the agreement.

§ 1. In the event of a merger or a split of a trade union or an employers' association that concluded a multi-enterprise agreement, their rights and obligations are transferred to the trade unions or associations created as a result of the merger or split.

§ 2. In the event of the dissolution of an employers' association or all the trade unions that are parties to a multi-enterprise agreement, the employer may, after serving the other party proper written notice, cease to apply a multi-enterprise agreement, or parts of it, after a period of time that is at least equal to the termination notice period of an agreement. The provision of Article 241⁸ § 2 applies accordingly.

§ 3. *(deleted)*

§ 4. Information concerning the matters referred to in § 1 and 2 must be filed in the register of agreements.

Art. 241²⁰ *(deleted)*

Art. 241²¹ *(deleted)*

Rozdział III. Enterprise collective labour agreements.

Art. 241²² *(deleted)*

Art. 241²³. Parties to an enterprise agreement. An enterprise collective labour agreement, hereinafter referred to as an „enterprise agreement”, is concluded by the employer and the enterprise trade union.

Art. 241²⁴. Initiative to conclude an agreement. The conclusion of an enterprise agreement can be initiated by:

- 1) the employer;
- 2) any enterprise trade union.

Art. 241²⁵. Joint representation.

§ 1. Where employees to be covered by an enterprise agreement are represented by more than one trade union, the agreement is negotiated by a joint representation or the respective trade unions acting jointly.

§ 2. If, within the time period designated by the entity initiating the conclusion of an enterprise agreement, not shorter than 30 days from the date of announcing the initiative to conclude the agreement, not all the trade unions commence negotiations in the manner defined in § 1, the trade unions that have commenced negotiations have the right to negotiate the agreement. Negotiations are conducted in the manner defined in § 1.

§ 3. At least one representative enterprise trade union, within the meaning of the provisions of Article 241^{25a}, must participate in the negotiations referred to in § 2.

§ 4. If an enterprise trade union is established prior to the conclusion of an agreement, it has the right to commence negotiations.

§ 5. An enterprise agreement is concluded by all the trade unions that negotiated the agreement, or at least all the representative trade unions within the meaning of Article 241^{25a} participating in the negotiations.

Art. 241²⁶. Relation to a multi-enterprise agreement.

§ 1. The provisions of an enterprise agreement may not be less advantageous to employees than the provisions of the multi-enterprise agreement that covers them.

§ 2. An enterprise agreement may not define the principles for remuneration of employees managing the work establishment in the name of the employer within the meaning of Article 128 § 2 point 2, as well as anyone managing the work establishment on a basis other than an employment relationship.

Art. 241²⁷. Suspension of an agreement.

§ 1. If required by the financial situation of the employer, the parties to an enterprise agreement may arrange to suspend the application of all or parts of the agreement and a multi-enterprise agreement, or one of them at this employer, for a period of up to three years. If only a multi-enterprise agreement is in force at an employer, then the parties entitled to conclude an enterprise agreement can arrange to suspend all or part of the application of this agreement.

§ 2. The arrangement referred to in § 1 will be entered into the register of enterprise agreements or the register of multi-enterprise agreements respectively. Furthermore, information on the suspension of the application of a multi-enterprise agreement will be conveyed by the parties to the arrangement to the parties to the agreement.

§ 3. Within the scope and for the time period determined in the arrangement referred to in § 1, the conditions of employment contracts and of other forms of employment resulting from a multi-enterprise agreement and an enterprise agreement will not apply by operation of law.

Art. 241²⁸. Negotiations.

§ 1. An enterprise agreement may cover more than one employer, as long as these employers form a single legal entity.

§ 2. The enterprise agreement is negotiated by:

- 1) the appropriate authority of the legal entity referred to in § 1, and
- 2) all enterprise trade unions active at the employers, subject to § 3.

§ 3. If enterprise trade unions belong to the same association, federation or confederation, an authority indicated by this association, federation or confederation is entitled to negotiate in their name.

§ 4. If, within the time period designated by the entity initiating the conclusion of an enterprise agreement, not shorter than 30 days from the date of announcing the initiative to conclude the agreement, not all the trade unions commence negotiations, the trade unions that have commenced negotiations are entitled to negotiate, as long as all the authorities referred to in § 3, indicated by multi-enterprise trade unions representing employees at an employer being part of the legal entity participate in the negotiations, and which are representative in the meaning of Article 241¹⁷ § 1 points 1 and 2 and § 3.

§ 5. An enterprise agreement is concluded by all the trade unions that have negotiated the agreement, or at least all the organs referred to in § 3, indicated by multi-enterprise trade unions representing employees at employers being part of the legal entity, and which are representative in the meaning of Article 241¹⁷ § 1 points 1 and 2 and § 3.

§ 6. The provisions of § 175 apply respectively to a unit that does not have legal personality and which consists of more than one employer.

Art. 241²⁹. Merger or dissolution of trade unions.

§ 1. *(deleted)*

§ 2. If several enterprise trade unions are merged, and at least one them concluded an enterprise agreement, the rights and obligations of the organisation are transferred to the organisation created as a result of the merger.

§ 3. If all the trade unions that concluded an enterprise agreement are dissolved, the employer may cease to apply all or part of the enterprise agreement after a period of time at least equal to the termination notice period of the agreement. The provision of Article 241⁸ § 2 applies accordingly.

§ 4. *(deleted)*

§ 5. *(deleted)*

Art. 241³⁰. Inter-enterprise trade union. The provisions of this Chapter apply accordingly to an inter-enterprise trade union that is active at an employer.

Art. 241^{25a}. Representative enterprise trade union.

§ 1. A representative enterprise trade union is a trade union:

- 1) that is an organisational unit or a membership organisation of a multi-enterprise trade union considered representative under Article 241¹⁷ § 1 point 1, provided the organisation covers at least 7 per cent of employees employed at the employer, or
- 2) covering at least 10 per cent of employees employed at the employer.

§ 2. If none of the enterprise trade unions meet the requirements referred to in § 1, the representative enterprise trade union is the organisation uniting the highest number of employees.

§ 3. When determining the number of employees covered by the enterprise trade union referred to in § 1 and 2, only employees belonging to this organisation at least six months prior to joining the negotiations for the conclusion of an enterprise agreement are taken into account. If an employee belongs to several enterprise trade unions, he should indicate one trade union which counts him as a member.

§ 4. An enterprise trade union may, prior to the conclusion of an enterprise agreement, submit a written reservation to the participants negotiating the agreement about another enterprise trade union meeting the criteria of a representative, as referred to in § 1 and 2; the employer also has the right to submit the reservation.

§ 5. In the case specified in § 4, an enterprise trade union against which a reservation has been submitted can apply to the district court - the labour court appropriate for the registered office of an employer with a request to recognise its representative character. The court will issue a decision on this matter within 30 days from the date of submitting the request, further to the procedure provided for in the Code of Civil Proceedings on extra-judicial proceedings.

Dział Dwunasty. Deciding on Disputes Related to Claims Arising from Employment Relationships.

Rozdział I. General provisions.

Art. 242. Pursuing claims before a court; conciliation proceedings.

§ 1. An employee may pursue claims arising out of his employment relationship before a court.

§ 2. An employee may ask to start conciliation proceedings before the conciliation commission before directing the case before the court.

Art. 243. Conciliatory settlement of disputes. An employer and an employee should aim to reach a conciliatory settlement of the dispute arising out of an employment relationship.

Rozdział II. Conciliation proceedings.

Art. 244. Conciliation commissions.

§ 1. Conciliation commissions are appointed for the conciliatory settlement of disputes arising out of employment relationships.

§ 2. *(deleted)*

§ 3. The conciliation commission is appointed jointly by the employer and an enterprise trade union, and if no enterprise trade union acts at the employer, then by the employer, after receiving a positive opinion from the employees.

§ 4. *(deleted)*

Art. 245. Principles and manner of appointing a conciliation commission. The following are established in accordance with the procedure provided for in Article 244 § 3:

- 1) the principles and the manner of appointing the commission,
- 2) the term of office of the commission,
- 3) the number of the members of the commission.

Art. 246. Prohibition on commission membership. The following people cannot be members of the conciliation commission:

- 1) a person managing the work establishment in the name of the employer,
- 2) the chief accountant,
- 3) a legal adviser,
- 4) a person conducting personal, employment and remuneration matters.

Art. 247. Appointment of the chairperson; regulations. The conciliation commission appoints the chairperson of the commission and his deputies from among its members, and determines the regulations of the conciliation proceedings.

Art. 248. Starting proceedings.

§ 1. The conciliation commission starts proceedings at the application of an employee submitted in writing or orally, into the minutes. The date of filing of the application is confirmed on the application.

§ 2. The submission of an application to the conciliation commission by an employee interrupts the time limits referred to in Article 264.

Art. 249. The number of the members of the commission. The conciliation commission conducts conciliation proceedings in groups of at least 3 members of the commission.

Art. 250 (deleted)

Art. 251. Dates of termination of proceedings.

§ 1. The conciliation commission should aim to reach a conciliatory settlement of the case within 14 days from the submission of the application. The date of the termination of the proceedings before the conciliation commission is stated in the minutes of the session of the group.

§ 2. In cases concerning the termination, expiry or establishment of an employment relationship, as referred to in Article 264, the application to the conciliation commission must be submitted before the lapse of the periods determined in that provision.

§ 3. In the cases referred to in § 2, the conciliation proceedings are, by operation of law, terminated 14 days after the submission of the application by an employee, and in other cases - 30 days after submitting the motion.

Art. 252. Settlement. A settlement reached before the conciliation commission is entered into the minutes of the session of the group. The minutes are signed by the parties and the members of the group.

Art. 253. Prohibition against reaching a settlement. No settlement can be reached that would be contrary to the law or the principles of community co-existence.

Art. 254. Transfer of the case to the labour court. If the proceedings before the conciliation commission do not result in reaching a settlement, the commission, upon a demand from the employee filed within 14 days from the termination of the conciliation proceedings, will immediately transfer the case to the labour court. The employee's demand for a conciliatory termination of the proceedings by the conciliation commission will be substituted by a claim. Instead of filing such a demand, the employee may bring a suit before the labour court in accordance with general principles.

Implementation of a settlement in accordance with the provisions Article 255 of the Code of Civil Proceedings

§ 1. If the employer does not implement the settlement, it will be subject to execution in accordance with the procedure determined in the provisions of the Code of Civil Proceedings, after the labour court has issued an enforcement clause.

§ 2. The labour court will reject the issue of the enforcement clause if the commission's documents reveal that the settlement is contrary to the law or the principles of community co-existence. This does not rule out the possibility of arriving at a statement that the settlement is inconsistent with the law or the principles of community co-existence in accordance with general principles.

Art. 256. Ineffectiveness of a settlement. An employee may apply to the labour court, within the period of 30 days from reaching a settlement, with a demand to declare that the settlement be deemed ineffective, in case he considers that the settlement violates his just interest. However, in the cases referred to in Article 251 § 2, the employee can only file such a demand within 14 days from reaching the settlement.

Right to remuneration due to the participation in the works Article 257 of the commission

Acting as a member of a conciliation commission is an honorary public function. However, a member of a conciliation commission retains the right to remuneration while not working due to his participation in the works of the commission.

Art. 258. Seat of the commission; expenses of the commission.

§ 1. The employer must provide the conciliation commission with premises as well as technical means enabling it to function properly.

§ 2. Expenses connected with the activity of the conciliation commission are covered by the employer. The expenses also include the equivalent of remuneration lost while the employee did not work in connection with his participation in the conciliation proceedings.

Art. 259-261 (deleted)

Rozdział III. Labour courts.

Art. 262. Jurisdiction of the labour court.

§ 1. Claims arising out of employment relationships are decided by:

- 1) labour courts - being separate organisational units of district courts and
- 2) labour and social insurance courts - being separate organisational units of voivodship courts, hereinafter referred to as the labour courts.

§ 2. The following claims do not fall within the jurisdiction of labour courts:

- 1) concerning the establishment of new work and remuneration conditions,

- 2) concerning the application of work standards,
- 3) concerning premises in employee hostels.

§ 3. The rules for establishing labour courts, their organisation and the proceedings before such courts will be regulated by separate provisions.

Art. 263 (*abrogated*)

Art. 264. Terms of pursuing claims.

§ 1. An appeal against a notice of termination of an employment contract must be filed with the labour court within 7 days from the delivery of the letter notifying of the termination of the employment contract with notice.

§ 2. A claim for reinstatement in a job position, or for compensation, must be filed with the labour court within 14 days from the delivery of the notification of the termination of the employment contract without notice, or of the date of the expiry of the employment contract.

§ 3. A claim to establish an employment contract must be filed with the labour court within 14 days from the delivery of the notification on the rejection of granting employment.

Art. 265. Resetting the time limit.

§ 1. If an employee has, without his fault, not performed an act referred to in Article 97 § 2¹ and in Article 264 within the specified time limit, the labour court, at the employee's request, will decide to reset the the expired time limit.

§ 2. A request to reset the time limit must be filed with the labour court within 7 days of the cessation of the reason for the failure to observe the time limit. The probable circumstances justifying the resetting of the time limit should be presented in the request.

Art. 266-280 (*deleted*)

Dział Trzynasty. Responsibility for Offences against the Rights of an Employee.

Rozdział I

Art. 281. Catalogue of offences. An employer, or anyone acting in his name, who:

- 1) concludes a civil-law contract where an employment contract should be concluded, under conditions specified in Article 22 § 1,
- 2) does not confirm in writing an employment contract concluded with an employee,
- 3) terminates an employment contract with an employee with or without notice, seriously violating the provisions of labour law,
- 4) applies penalties towards the employees other than those provided for in the provisions of labour law on the liability of employees for maintaining order,
- 5) violates the provisions on working time or the provisions on the rights of employees connected with parenthood or the employment of young people,
- 6) does not keep documentation in employment matters and personal files of employees,
- 7) leaves documentation in matters related to an employment relationship as well as personal files of employees in conditions threatening by damage or destruction

is liable to a fine of between 1,000 zlotys and 30,000 zlotys.

Art. 282. Catalogue of offences.

§ 1. Anyone who, despite an obligation:

- 1) does not pay, within the set period of time, the remuneration for work or any other benefit due to an employee or to a member of his family who is entitled to such benefit, or reduces, without a legal basis, the amount of the remuneration or the benefit, or makes any deductions without a legal basis,
- 2) does not grant an employee the annual leave to which the employee is entitled, or shortens the duration of this leave without a legal basis,
- 3) does not issue to an employee a work certificate

is liable to a fine of between 1,000 zlotys and 30,000 zlotys.

§ 2. Anyone who, despite an obligation, does not implement a decision of the labour court that is subject to execution, or a settlement reached before a conciliation commission or the labour court, is liable to the same fine as defined in § 1 above.

Art. 283. Breach of the provisions for health and safety at work.

§ 1. Anyone who, while responsible for health and safety at work or otherwise managing employees or other individuals, does not observe the provisions or principles of health and safety at work is liable to a fine of between 1,000 zlotys and 30,000 zlotys.

§ 2. The same fine applies to anyone who:

- 1) despite an obligation, does not notify the relevant district labour inspector and the relevant State sanitary inspector, within 30 days, about the place, type and scope of activity conducted, as well as any change to the place, type and scope of activity conducted, as well as any change of the technology, if a change in the technology may increase the risk to the health of the employees,
- 2) despite an obligation, does not ensure that the construction or reconstruction of a building, or any part in which work premises are to be located, is performed on the basis of designs meeting the requirements of health and safety at work,
- 3) despite an obligation, equips workstations with machines and other technical devices that do not meet the requirements related to the evaluation of conformity,
- 4) despite an obligation, provides employees with means of individual protection that do not satisfy the requirements related to the evaluation of conformity,
- 5) despite an obligation, uses:

- a) materials and technological processes without first testing the degree of their harmfulness to the health of employees, and without taking appropriate preventative measures,
- b) chemical substances and their mixtures lacking clearly visible marks allowing for their identification,
- c) hazardous substances, hazardous mixtures, substances involving danger or mixtures involving danger without a chart of characteristics, as well as packaging preventing their harmful effects, fire or explosion,
- 6) despite an obligation, does not notify the relevant district labour inspector, a prosecutor or other appropriate authority about a fatal, serious or group accident at work, and of any other accident which has caused the mentioned effects, when such accident may be considered an accident at work; does not report an occupational disease or a suspicion of such a disease; does not report an accident at work or an occupational disease, or presents false information, evidence or documents concerning such accidents and diseases,
- 7) does not perform an executable order of the State Labour Inspectorate within the specified period of time,
- 8) impedes the activity of the authority of the State Labour Inspectorate, in particular prevents the inspection of the work establishment, or does not provide information necessary to perform its tasks,
- 9) without permission from the relevant labour inspector, allows a child under the age of 16 to perform work or another paid job.

Rozdział II

(deleted)

Art. 284-290¹ (deleted)

Dział Czternasty. Limitation of Claims.

Art. 291. Periods of limitation of claims.

§ 1. Claims arising out of an employment relationship are barred by a limitation of 3 years from the date on which the claim became enforceable.

§ 2. However, an employer's claims for the repair of the damage caused by an employee as a result of a failure to perform or by the improper performance of his duties is barred after a year from the date on which the employer became aware that the employee caused the damage, but not later than 3 years after the damage was caused.

§ 2¹. The provision of § 2 also applies to the claim of an employer referred to in Article 61¹ and in Article 101¹ § 2.

§ 3. Where an employee has caused the damage intentionally, the provisions of the Civil Code apply to the time limitation of a claim on the repair of the damage.

§ 4. Limitation periods cannot be shortened or extended by an act in law.

§ 5. A claim upheld by a valid decision of an authority appointed to decide on disputes, as well as a claim stated in a settlement concluded in accordance with the procedure determined in this Code before such an authority, is liable to limitation after 10 years from the date on which the decision became legally valid or the settlement was concluded.

Art. 292. Time-limited claim. A claim cannot be pursued after the expiry of a limitation period, unless the person against whom the claim is pursued waives the expiry of the limitation period; a waiver of a limitation period made before the expiry is invalid.

Art. 293. Force majeure. The course of a limitation period does not start, and if it has already started it is suspended for the duration of an event of force majeure preventing the entitled person from pursuing claims before the appropriate authority appointed to decide on disputes.

Art. 294. The course of the limitation period. The limitation period for a person without full capacity to perform acts in law or for whom there are grounds to be fully legally incapacitated, may not be terminated earlier than 2 years from the appointment of a statutory representative for this person, or from when the reason for the appointment ceases to exist. Where the limitation period is 1 year, it starts from the appointment of the statutory representative of the person, or from when the reason for the appointment ceases to exist.

Art. 295. Interruption of the course of the limitation period.

§ 1. The course of the limitation period is interrupted by:

- 1) any act before an appropriate authority appointed to decide on disputes or to execute claims, undertaken directly for the purpose of pursuing, establishing, performing or securing such a claim,
- 2) by the acceptance of the claim.

§ 2. Limitation periods are reset following any interruption. If the limitation period is interrupted due to the reasons referred to in § 1 point 1, the limitation period does not reset as long as the proceedings started for the purpose of pursuing, establishing, performing or securing the claim are not terminated.

Dział CzternastyA

Art. 295¹ (abrogated)

Art. 295² (abrogated)

Dział Pi tnasty. Final Provisions.

Art. 296 (*deleted*)

Art. 297. Delegation. The Minister of Labour and Social Policy will determine, in an executive regulation, the following:

- 1) the procedure for establishing remuneration,
 - a) to which an employee is entitled while not performing work,
 - b) constituting the basis for establishing the amount of fines, deductions, compensations, death allowances or other dues provided for in the Labour Code;
- 2) the procedure for establishing the amount of supplementary allowances to the remuneration.

Art. 298 (*abrogated*)

Art. 298¹. Delegation - documentation and personal files. The Minister of Labour and Social Policy will determine, in an executive regulation, the extent of the employer's duty related to keeping documentation in matters related to an employment relationship, as well as the method of keeping the personal files of employees.

Art. 298². Delegation - absence and time free from work. The Minister of Labour and Social Policy will determine, in an executive regulation, the method of justifying an absence from work as well as the scope of time free from work to which an employee is entitled, as well as the cases where the employee retains the right to remuneration for the period of an absence or time free from work.

Art. 298³ (*abrogated*)

Art. 299 (*deleted*)

Art. 300. Appropriate application of the provisions of the Civil Code. In cases not regulated by the provisions of labour law, the provisions of the Civil Code apply accordingly to an employment relationship, provided they are not contrary to the principles of labour law.

Art. 301. Military service.

§ 1. Special rights related to an employment relationship of anyone called to active military service and dismissed from this service are governed by the provisions on the general duty of the defence of the Republic of Poland as well as the provisions on the military service of professional soldiers.

§ 2. A period of active military service is counted into the employment period in the scope and in accordance with the principles provided for in the provisions referred to in § 1.

Art. 302. Non-military services. A period of service in the Police, the State Protection Agency, the Internal Security Agency, the Intelligence Agency, the Military Counter-Intelligence Service, the Military Intelligence Service, the Central Anti-Corruption Agency, the Prison Service, the Border Guard, or the State Fire Brigade, is counted into the employment period, in the scope and in accordance with the principles provided by separate law provisions.

Art. 303. Work in a cottage industry.

§ 1. The Council of Ministers will determine, in an executive regulation, the scope of application of the provisions of labour law to anyone performing work in a cottage industry, with modifications resulting from the different conditions of performing such work.

§ 2. The Council of Ministers may determine, in an executive regulation, the scope of application of the provisions of labour law to anyone performing work, on a regular basis, under other form of employment than an employment relationship or an employment contract related to performing work in a cottage industry, with modifications resulting from the different conditions of performing such work.

Art. 304. Obligations of an employer towards non-employees related to health and safety at work

§ 1. The employer is obliged to ensure the conditions of health and safety at work as referred to in Article 207 § 2 to individuals performing work on a basis other than an employment relationship in a work establishment or in a place designated by the employer, as well as to anyone conducting business activity on their own account in the work establishment or in a place designated by the employer.

§ 2. The employer is obliged to ensure conditions of health and safety at work for training sessions held on the premises of the work establishment for students and pupils who are not employees of the employer.

§ 3. The duties specified in Article 207 § 2 apply accordingly to enterprises that are not employers and that organise work performed by individuals:

- 1) on a basis other than an employment relationship,
- 2) who conduct business activity on their own account.

§ 4. If work is performed in the place accessed by people who do not participate in the process of work, the employer must apply the measures necessary to ensure the life and health of these people is protected.

§ 5. The Minister of National Defence - in relation to the soldiers in the active military service, and the Minister of Justice - in relation to anyone held in prison establishments or in young offender institutions, in co-operation with the Minister of Labour and Social Policy, will determine, in executive regulations, the scope of the application of the provisions of section ten to these people in case specified tasks or works are performed on the premises of the work establishment or in a place designated by the employer.

Art. 304¹. Duties concerning health and safety at work. The duties referred to in Article 211, within the scope determined by an employer or another entity organising work, will also be imposed on individuals who perform work on a basis other than an employment relationship in a work establishment or in a place designated by the employer or another entity organising work, as well as on anyone conducting business activity on their own account in the work establishment or in a place designated by the employer or another entity organising work.

Art. 304². Members of farmers' co-operatives. Article 208 § 1, Article 213 § 2, Article 217 § 2, Article 218, Article 220 § 1 and Article 221 § 1³ apply accordingly to members of farmers' co-operatives and members of their families co-operating with them, as well as members of farming services co-operatives (agricultural services).

Art. 304³. Work on own account. Article 208 § 1 applies accordingly to individuals conducting business activity on their own account.

Art. 304⁴. Duties of an employer on health and safety at work toward people performing short-time jobs. The employer is obliged to provide necessary working clothing and means of individual protection to anyone performing short-time jobs or inspection activities during which their own clothing may be liable to destruction or heavy soiling, and also to ensure the safety of the jobs performed or the activities undertaken.

Art. 304⁵. Exceptional performance of work by children.

§ 1. Work or other paid jobs may only be performed by a child under the age of 16 for the benefit of an entity conducting cultural, artistic, sporting or advertising activity, and only with the prior consent of a statutory representative or a custodian of this child, as well as permission from the relevant labour inspector.

§ 2. The relevant labour inspector grants the permission referred to in § 1 at the request of the entity determined in this provision.

§ 3. The relevant labour inspector refuses permission if the performance of work or other paid job in the scope provided for in § 1:

- 1) will endanger life, health or psychophysical development of the child,
- 2) constitutes a threat to the child performing school duties.

§ 4. The entity referred to in § 1 must attach to the request for permission:

- 1) the written consent from a statutory representative or a custodian of the child concerning the work or other paid job performed by the child,
- 2) the opinion of a psychological-and-pedagogical consultancy stating that there are no reasons why the child should not perform the work or other paid jobs,
- 3) a medical certificate stating that there are no reasons why the child should not perform the work or other paid jobs,
- 4) if the child has a duty to attend school, the opinion of the director of the school attended by the child, concerning the possibilities of the child performing the duties while performing the work or other paid jobs.

§ 5. The permission referred to in § 1 should include:

- 1) the personal data of the child and of the child's statutory representative or the child's custodian,
- 2) particulars of the entity conducting the activity within the scope provided for in § 1,
- 3) the determination of the type of work or of other paid jobs the child may perform,
- 4) the determination of an admissible time period for the performance of the work by the child, or of other paid jobs,
- 5) the determination of the admissible working time, or time of other paid jobs in a 24-hour period,
- 6) other necessary details required in respect of the interest of the child, or the type, character or conditions of the performance of the work or other paid jobs by the child.

§ 6. At the request of a statutory representative of the child or the child's custodian, the relevant labour inspector will withdraw the permission.

§ 7. The relevant labour inspector will withdraw the permission ex officio if he determines that the conditions of the work of the child do not correspond to the conditions specified in the issued permission.

Art. 305 (deleted)

Footnote 1

This Act implements, within the scope of its regulation, the following directives of the European Communities:

- 1) Directive 83/477/EEC of 19 September 1983 on the protection of workers from the risks related to exposure to asbestos at work (second individual Directive within the meaning of Article 8 of Directive 80/1107/EEC) (OJ L 263, 24.9.1983, with later amendments),
- 2) Directive 86/188/EEC of 12 May 1986 on the protection of workers from the risks related to exposure to noise at work (OJ L 137, 24.5.1986),
- 3) Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (OJ L 183, 29.6.1989),
- 4) Directive 89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace (first individual directive within the meaning of Article 16¹ of Directive 89/391/EEC) (OJ L 393, 30.12.1989),
- 5) Directive 89/655/EEC of 30 November 1989 concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16¹ of Directive 89/391/EEC) (OJ L 393, 30.12.1989, with later amendments),
- 6) Directive 89/656/EEC of 30 November 1989 on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (third individual directive within the meaning of Article 16¹ of Directive 89/391/EEC) (OJ L 393, 30.12.1989),
- 7) Directive 90/269/EEC of 29 May 1990 on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers (fourth individual Directive within the meaning of Article 16¹ of Directive 89/391/EEC) (OJ L 156, 21.6.1990),
- 8) Directive 90/270/EEC of 29 May 1990 on the minimum safety and health requirements for work with display screen equipment (fourth individual Directive within the meaning of Article 16¹ of Directive 89/391/EEC) (OJ L 156, 21.6.1990),
- 9) Directive 90/394/EEC of 28 June 1990 on the protection of workers from the risks related to exposure to carcinogens at work (sixth individual Directive within the meaning of Article 16¹ of Directive 89/391/EEC) (OJ L 196, 26.7.1990, with later amendments),
- 10) Directive 91/322/EEC of 29 May 1991 on establishing indicative limit values by implementing Council Directive 80/1107/EEC on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work (OJ L 177, 5.7.1991),
- 11) Directive 91/383/EEC of 25 June 1991 supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship (OJ L 206, 29.7.1991),
- 12) Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship (OJ L 288, 8.7.1992),

- 13)** Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at a temporary or mobile construction sites (eighth individual Directive within the meaning of Article 16¹ of Directive 89/391/EEC) (OJ L 245,26.8.1992),
- 14)** Directive 92/58/EEC of 24 June 1992 on the minimum requirements for the provision of safety and/or health signs at work (ninth individual Directive within the meaning of Article 16¹ of Directive 89/391/EEC) (OJ L 245, 26.8.1992),
- 15)** Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16¹ of Directive 89/391/EEC) (OJ L 348, 28.11.1992),
- 16)** Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time (OJ L 307, 13.12.1993),
- 17)** Directive 94/33/EC of 22 June 1994 on the protection of young people at work (OJ L 216, 20.8.1994),
- 18)** Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by the Union of Industrial and the Employer's Confederations of Europe (UNICE), the European Centre for Enterprises with Public Participation (CEEP) and the European Trade Union Confederation (ETUC) (OJ L 145, 19.6.1996),
- 19)** Directive 96/71/EC of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.1997),
- 20)** Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex (OJ L 14, 20.1.1998),
- 21)** Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth individual Directive within the meaning of Article 16¹ of Directive 89/391/EEC) (OJ L131, 5.5.1998),
- 22)** Directive 99/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by the Union of Industrial and the Employer's Confederations of Europe (UNICE), the European Centre for Enterprises with Public Participation (CEEP) and the European Trade Union Confederation (ETUC) (OJ L 175,10.7.1999),
- 23)** Directive 1999/92/EC of 16 December 1999 on minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres (15 th individual directive within the meaning of Article 16¹ of Directive 89/391/EEC) (OJ L 23,28.1.2000),
- 24)** Directive 2000/34/EC of 22 June 2000 amending Council Directive 93/104/EC concerning certain aspects of the organisation of working time to cover sectors and activities excluded from that Directive (OJ L195, 1.8.2000),
- 25)** Directive 2000/39/EC of 8 June 2000 establishing a first list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC on the protection of the health and safety of workers from the risks related to chemical agents at work (OJ L142,16.6.2000),