

**The Act  
of 13 April 2007  
on National Labour Inspectorate**

**(Official Journal of Laws of 21 May 2007)**

**Chapter 1  
Organisation of National Labour Inspectorate**

**Section 1**

National Labour Inspectorate is an authority established in order to supervise and inspect the observance of labour law, in particular occupational safety and health rules and regulations as well as regulations on legality of employment and other paid work in the scope specified by the Act.

**Section 2**

National Labour Inspectorate is subordinate to the Lower Chamber of Parliament (i.e. Sejm). Supervision of National Labour Inspectorate is exercised by Labour Protection Council in the scope specified by the Act.

**Section 3**

1. National Labour Inspectorate is formed by: Chief Labour Inspectorate and District Labour Inspectorates.

2. National Labour Inspectorate is managed by Chief Labour Inspector with the assistance of deputies.

**Section 4**

1. Chief Labour Inspector is appointed and recalled by the Speaker of Parliament after asking the Labour Protection Council's opinion.

2. Chief Labour Inspector performs his duties until the day of appointment of his successor.

3. Deputy Chief Labour Inspectors are appointed and recalled by the Speaker of Parliament on the Chief Labour Inspector's motion.

**Section 5**

1. A District Labour Inspectorate covers one or more provinces with its territorial competence. Sub-district offices may be established within the structure of District Labour Inspectorates.

2. A District Labour Inspectorate is managed by a District Labour Inspector with the assistance of deputies.

3. District Labour Inspectors and their deputies are appointed and recalled by Chief Labour Inspector.

**Section 6**

1. The Speaker of Parliament, on the Chief Labour Inspector's motion and by means of an order, establishes the following:

1) the statute of National Labour Inspectorate, describing its internal organisation,

2) the seats of District Labour Inspectorates and the scope of their territorial competence.

2. Orders of the Speaker of Parliament in matters mentioned in subsection 1 above are published in the Official Journal of the Republic of Poland, i.e. "Monitor Polski".

## **Section 7**

1. Labour Protection Council, hereinafter referred to as “the Council”, is established as a supervisory body in matters regarding compliance with the labour law, including occupational safety and health, as well as legality of employment and the activity of National Labour Inspectorate.

2. The Council consists of 30 persons, including a chairman, vice-chairman, secretary and members who are appointed and recalled by the Speaker of Parliament. The Council’s term of office lasts four years.

3. Members of the Council perform their duties until new members are appointed.

4. The Council members are chosen from among members of both Chambers of Parliament, candidates proposed by the Prime Minister, candidates proposed by trade unions and employers’ organisations representative for their groups in the meaning of the Act of 6 July 2001 on Tripartite Committee for Social and Economic Issues and Provincial Committees for Social Dialogue (Official Journal of Laws, No 100, item 1080, with further amendments), as well as by other social organisations concerned with labour protection. Experts and representatives of scientific circles are also nominated as the Council members.

5. An employee of National Labour Inspectorate cannot be nominated as a Council member, unless he is on unpaid leave granted to them in order to execute duties resulting from an election.

6. The rules of representation in the Council and the amount of daily allowance in case of participating in the Council’s meetings are established by the Speaker of Parliament.

7. The Council’s task is to formulate its position on matters covered by the scope of the National Labour Inspectorate’s activity, in particular as regards:

- 1) work programmes and tasks of National Labour Inspectorate,
- 2) periodical evaluations of the National Labour Inspectorate’s activity and conclusions resulting from these evaluations,
- 3) labour protection issues on a national scale.

8. The Council expresses its opinion on the candidates for the posts of Chief Labour Inspector and the deputies, as well as District Labour Inspectors.

9. The Council acts on the basis of procedural rules adopted by itself and approved by the Speaker of Parliament.

## **Section 8**

1. National Labour Inspectorate runs a training facility – National Labour Inspectorate’s Training Centre in Wrocław named after Professor Jan Rosner, hereinafter referred to as “the Training Centre”.

2. The Training Centre’s tasks are training and development of National Labour Inspectorate’s staff, dissemination of knowledge and information and provision of advice with regard to labour protection.

3. Chief Labour Inspector establishes the statute of the Training Centre and, on its director’s motion, determines details of its internal organisation.

## **Section 9.**

1. Chief Labour Inspector licenses safety and health surveyors on the motion of the Board for Evaluation of Candidates for Occupational Health and Safety Surveyors, hereinafter referred to as ‘the Board’, and maintains a central register of powers granted.

2. The powers of safety and health surveyor, hereinafter referred to as ‘surveyor’ may be granted to a person who:

- 1) has a higher technical education;
- 2) has at least five years of professional experience in the academic specialization;
- 3) completed a course preparing for issuing opinions on safety and health at work and ergonomic projects, run by an entity authorised by Chief Labour Inspector, according to the programme approved of by Chief Labour Inspector;

- 4) passed an exam before the Board.
3. The powers granted to a surveyor allow them to issue opinions on newly constructed or reconstructed buildings and their parts in which workrooms are to be located in respect of complying with safety and health regulations and ergonomic requirements.
4. Chief Labour Inspector, on his own initiative or on a relevant District Labour Inspector's motion may withdraw the powers of a surveyor in case of issuing an opinion which flagrantly infringes upon safety and health regulations. Chief Labour Inspector may also withdraw the powers of a surveyor on a District Labour Inspector's motion, if in his area of competence during technical acceptance of a structure it is discovered that in his opinion the surveyor failed to take into account vital safety and health regulations. Decision on withdrawing the powers of a surveyor shall be taken after considering the surveyor's explanations.
5. The Board's members are appointed, for a four-year period, by Chief Labour Inspector in agreement with the Minister competent for labour affairs, from among candidates indicated by:
  - 1) General Office of Building Control,
  - 2) technical organisations, professional associations, chambers of professional self-government described in the Act on professional self-governments of architects, construction engineers, town planners, and from among representatives of scientific circles and National Labour Inspectorate's employees. The Board consists of 8 persons.
6. Chief Labour Inspector, in agreement with the Minister competent for labour affairs, may recall a member of the Board:
  - 1) on the motion of the party which applied for this member's candidature;
  - 2) in case of continued failure to take part in the Board's work.
7. The Board members receive remuneration for taking part in the Board's work as well as allowances and reimbursement of travel costs according to the rules set out in Article 77<sup>5</sup> § 2 of the Labour Code.
8. Costs connected with preparation of candidates for surveyors, upgrading qualifications by surveyors and granting powers to surveyors, determined by Chief Labour Inspector, are incurred respectively by the candidate for a surveyor or by a surveyor.
9. The Minister competent for labour affairs, after asking the opinion of Chief Labour Inspector, shall specify by means of a regulation:
  - 1) detailed conditions and procedures of granting and withdrawing powers of a surveyor as well as requirements regarding the preparation of candidates for surveyors, and upgrading of qualifications by surveyors, taking into consideration the level of education, past professional experience with regard to issuing opinions on construction projects and the necessity of periodic training;
  - 2) the scope of granted powers referred to in subsection 3 above, the model of surveyor's license, the model of individual clause and seal and the model of register of examined projects, taking into consideration type of construction and division into project groups;
  - 3) requirements concerning surveyors' opinions on newly constructed or reconstructed buildings and their parts in which workrooms are to be located, together with procedures for lodging an appeal against issued opinions, taking into consideration specifics, type and the envisaged use of the building under construction, as well as conformity of adopted arrangements with binding regulations and standards.
  - 4) the procedure of appointing and recalling members of the Board and the way of conducting the examination, taking into consideration the necessity to ensure effective functioning of the Board;
  - 5) the amount of remuneration of the Board members, taking into consideration the scope of performed activities.

## **Chapter 2**

### **Tasks of National Labour Inspectorate**

#### **Section 10**

1. The scope of National Labour Inspectorate's activity comprises:
  - 1) supervision and inspection of labour law observance by enterprises, in particular occupational safety and health rules and regulations, provisions concerning an employment relationship, remuneration and other benefits resulting from an employment relationship, working time, holidays, employee rights connected with parenthood, employment of juveniles and persons with disabilities;
  - 2) inspection of the observance of occupational safety and health regulations during the design of construction, reconstruction and modernisation of enterprises, as well as machinery and other technical devices and technologies;
  - 3) inspection of legality of employment, other paid work, conducting economic activity and inspection of compliance with the obligation to:
    - a. inform county employment offices about employing an unemployed person or engaging them to perform other paid work,
    - b. inform county employment offices by unemployed persons about taking up employment, other paid work or activity,
    - c. pay contributions for Labour Fund,
    - d. make an entry in the register of employment agencies, when running an employment agency is subject to making entry in said register;
    - e. run employment agencies in accordance with conditions laid out in regulations concerning the promotion of employment and labour market institutions.
  - 4) inspection of the legality of employment, other paid work and work performed by foreigners;
  - 5) participation in acceptance for operation of newly constructed or reconstructed enterprises or parts thereof, in the scope set out in separate regulations;
  - 6) inspection of goods placed on the market as regards their compliance with occupational safety and health requirements set out in separate regulations;
  - 7) taking actions aimed at preventing and eliminating hazards in the working environment, in particular:
    - a. examination and analysis of causes and circumstances of accidents at work, inspection of application of measures preventing such accidents,
    - b. analysis of causes of occupational diseases and inspection of application of measures preventing such diseases,
    - c. initiating research work in the sphere of compliance with labour law, particularly health and safety regulations,
    - d. initiation of undertakings related to labour protection issues in private farming,
    - e. providing advice and information of technical nature in the area of eliminating hazards to life and health of workers, as well as advice and information on labour law observance;
  - 8) cooperation with bodies for environmental protection in inspecting observance by employers of regulations on counteracting hazards to the environment;
  - 9) inspection of the observance of occupational safety and health requirements as stipulated in the Act of 22 June 2001 on genetically modified organisms (Official Journal of Laws, No 76, item 811, with further amendments);
  - 10) issuing opinions on draft legal acts in the area of labour law;
  - 11) lodging complaints and, following the concerned person's consent, participation in legal proceedings for the establishment of an employment relationship before Labour Courts;
  - 12) issuing and withdrawing permits in situations referred to in Article 304<sup>5</sup> of the Act of 26 June 1974 – Labour Code (Official Journal of Laws of 1998, No. 21, item 94 with further amendments);

13) providing information, upon a written request of the interested person, on the minimum terms of employment of employees set out in Chapter IIa of the Act of 26 June 1974 – Labour Code;

14) cooperation with other European Union Member States' authorities competent for the supervision of employment and working conditions, in respect of:

a) provision of information about terms of employment of employees posted to perform work in the territory of a European Union Member State for a fixed-time period by an employer having a seat in the territory of the Republic of Poland,

b) informing about discovered offences against the rights of employees posted to work in the territory of the Republic of Poland for a fixed-time period by an employer having a seat in the territory of a European Union Member State,

c) informing about labour market authority competent to provide requested information owing to its scope of activity;

15) prosecuting offences against employee rights as defined in the Labour Code, Offence's Code, Articles 119-123 of the Act of 20 April 2004 on the promotion of employment and labour market institutions (Official Journal of Laws No. 99, item 1001 with further amendments), as well as other offences related to paid work if stipulated so in legal provisions, and participation in proceedings as a public prosecutor;

16) performance of other tasks specified in the herein Act and specific regulations.

2. The National Labour Inspectorate's scope of activity includes also supervision and inspection of the duty to secure safe and healthy working conditions:

1) for individuals performing work on basis other than an employment relationship and persons performing economic activity on their own account in a place specified by an employer or entrepreneur not being an employer, for whom such work is performed;

2) by units which organise work performed by individuals for the general public benefit on basis other than an employment relationship;

3) of prisoners and persons retained at penitentiary and juvenile detention institutions if they perform work, as well as soldiers in active military service, who perform work assigned to them.

3. National Labour Inspectorate also supervises and inspects the employer's duty to secure safe and healthy conditions to students and trainees who are not employees but receive vocational practical training on the employer's premises.

4. National Labour Inspectorate may also conduct examination and analysis of hazardous and arduous factors in the working environment.

## **Section 11**

In case of identifying an infringement upon regulations concerning labour law or legality of employment, the competent officers of National Labour Inspectorate shall have the right to:

1) when an infringement concerns the OSH rules and regulations, order the manager of the enterprise to eliminate the identified irregularities within a specified time-limit,

2) order the manager of the plant to: cease work when the offence causes immediate hazard to life or health of employees or other persons engaged in work; transfer to other tasks the workers employed against the existing regulations at forbidden, harmful or hazardous work, as well as workers employed at hazardous tasks if they do not have the required qualifications; orders in these matters are to be enforced immediately,

3) order to cease the operation of machines and equipment when their operation causes an immediate hazard to life or health of humans, orders in these matters are to be enforced immediately;

4) forbid to perform work or activity in places, where the state of working conditions causes immediate hazard to life or health of humans, orders in these matters are to be enforced immediately;

5) in case of concluding that the state of occupational safety and health is hazardous to life or health of workers or natural persons performing work on basis other than an employment

relationship, including persons performing economic activity on their own account, order to discontinue the performance of activity or activity of a given type,

6) order to determine, within a specified period, causes and circumstances of the accident;

7) order the employer to pay the employee due remuneration for work as well as other due benefits, orders in these matters are to be enforced immediately;

8) if other infringements than mentioned in points 1 - 7 above are identified, address an improvement notice asking to eliminate them and take action with regard to the guilty persons.

### **Section 12**

In proceedings before the competent officers of National Labour Inspectorate concerning matters not regulated in the herein Act or in the rules issued on its basis, or in any other special provisions, the provisions of the Act of 14 June 1960 – Administrative Proceedings Code – shall be applied (Official Journal of Laws of 2000, No. 98, item 1071, with further amendments).

### **Section 13**

The inspection activities of National Labour Inspectorate cover all employers and – in the scope of safety and health at work as well as legality of employment – entrepreneurs not being employers – for whom work is performed by natural persons, including persons performing economic activity on their own account, regardless of the basis of such work, hereinafter referred to as ‘inspected entities’.

### **Section 14**

1. National Labour Inspectorate, in the area of its activity, cooperates with trade unions, employers’ organisations, workers’ self-government authorities, social labour inspection and state administration authorities, particularly authorities for supervision and inspection of working conditions, the Police, Border Guard, customs authorities, revenue offices and Social Insurance Institution as well as local self-government authorities.

2. National Labour Inspectorate shall be entitled to use, free of charge, data stored in:

1) National Register of Taxpayers;

2) National official register of national economy entities (REGON) run by the President of Chief Statistical Office;

3) Social Insurance Institution - at the account of the person insured and at the account of the payer of insurance contributions which are referred to in Article 40 and 45 of the Act of 13 October 1998 on Social Insurance System (Official Journal of Laws of 2007, No. 11, item 74, No. 17, item 95 and No. 21, item 125) respectively in the scope of being subject to social insurance;

4) Common Electronic System of Population Register (RCI PESEL).

3. National Labour Inspectorate may, on the motion of the trade unions, provide training and instruction, give assistance in the training of social labour inspectors, as well as undertake activities for the sake of improving and increasing the effectiveness of the social labour inspection’s work.

### **Section 15**

In case of a justified need and in order to ensure safety of inspectors, the Police officers shall be obliged to provide adequate assistance if so requested by a labour inspector.

### **Section 16**

The Prime Minister shall determine, by means of a regulation, the principles of cooperation between National Labour Inspectorate and other authorities for supervision and inspection of working conditions and legality of employment with a view to ensuring efficient cooperation.

## **Chapter 3**

### **Scope of activity of National Labour Inspectorate's officers**

#### **Section 17**

The following are National Labour Inspectorate's empowered officers:

- 1) Chief Labour Inspector;
- 2) District Labour Inspectors;
- 3) labour inspectors acting within the territorial competence of District Labour Inspectorates.

#### **Section 18**

1. The scope of Chief Labour Inspector's activity comprises:
  - 1) managing the activity of Chief Labour Inspectorate and District Labour Inspectors;
  - 2) examining appeals against decisions of District Labour Inspectors;
  - 3) developing annual and multi-year programmes of National Labour Inspectorate's activity;
  - 4) exercising general supervision of:
    - a) compliance with the labour law and submitting assessments, opinions and motions in that regard to competent authorities,
    - b) in punishment ticket proceedings in offence cases referred to in art. 17 § 2 of the Act of 24 August 2001 - the Code of proceedings in minor offence cases (Official Journal of Laws No 106, item 1148 with further amendments);
  - 5) formulating opinions on draft legal acts and initiating legislative work in that regard;
  - 6) initiating actions related to implementation of technological developments in the area of occupational safety and health;
  - 7) submitting motions with regard to education and training in the area of occupational safety and health, organizing and conducting training for labour inspectors as well as supervision of the activity of the NLI's Training Centre;
  - 8) conducting publishing and promotional activity with regard to labour protection;
  - 9) participating in the work of governmental committees investigating work accidents;
  - 10) preparing and presenting information and reports referred to in subsection 3 below;
  - 11) granting and revoking the powers of a surveyor for occupational safety and health, which are referred to in section 9.
2. Chief Labour Inspector provides the Minister competent for labour matters with summarised results of inspection and evaluation of compliance with the labour law, including provisions on occupational safety and health and legality of employment.
3. Chief Labour Inspector presents to the Parliament and the Council of Ministers, not later than by 30 June of the next calendar year, information on the National Labour Inspectorate's activity and the annual report on its activity along with the activity-related conclusions concerning compliance with the labour law and regulations of the Act of 20 April 2004 on the promotion of employment and labour market institutions in the scope specified in section 10 subsection 1, points 3 and 4, by inspected entities and authorities exercising supervision of companies or other organizational units of the state or self-government.
4. The annual report, which is referred to in subsection 3 is presented by Chief Labour Inspector to Labour Protection Council and made known to the general public.
5. Chief Labour Inspector performs his tasks with the assistance of subordinate to him Chief Labour Inspectorate.
6. Chief Labour Inspector undertakes actions in labour law matters with regard to employees of Chief Labour Inspectorate and employees who supervise or conduct inspection activities.

#### **Section 19**

1. The scope of District Labour Inspector's activity comprises in particular:
  - 1) managing the activity of a District Labour Inspectorate, supervision of labour inspectors' work and coordination of their activity;

- 2) assigning tasks to labour inspectors with account taken of their professional qualifications;
  - 3) approving work plans developed by labour inspectors;
  - 4) issuing decisions which are referred to in section 11 subsection 5;
  - 5) examining appeals against orders and other decisions of labour inspectors;
  - 6) maintaining a register of employers who conduct economic activity in the area of their territorial competence;
  - 7) drawing up periodic reports on the District Labour Inspectorate's activity;
  - 8) notifying the Speaker of the competent province of identified cases of infringements upon rules of running employment agencies specified in regulations on the promotion of employment and labour market institutions;
  - 9) notifying the competent staroste (head of county authorities) of identified cases of infringements upon regulations on the promotion of employment and labour market institutions by an unemployed person or inspected entity.
2. District Labour Inspector performs his tasks with the assistance of a District Labour Inspectorate.
  3. District Labour Inspector undertakes actions in labour law matters with regard to employees of a District Labour Inspectorate with the exclusion of employees who are referred to in section 18 subsection 6.

### **Section 20**

1. District Labour Inspector draws up an annual report on the District Labour Inspectorate's activity which includes assessment of the scope of compliance with the labour law, particularly the state of occupational safety and health as well as regulations on legality of employment in the area of the district.
2. The report, which is referred to in subsection 1 shall be presented by District Labour Inspector to Chief Labour Inspector and competent Marshal and Speaker of the province.

## **Chapter 4 Inspection proceedings**

### **Section 21**

Inspection proceedings aim at determining the factual state of affairs in respect of compliance with labour law regulations, particularly regulations on safety and health at work, as well as regulations concerning legality of employment, and documenting findings made.

### **Section 22**

1. Inspections shall be conducted by labour inspectors acting according to territorial competence of District Labour Inspectorates.

2. Chief Labour Inspector may appoint a labour inspector to conduct specific inspection activities and use legal measures within the territory of competence of another District Labour Inspectorate, as well as outside the territory of the Republic of Poland, where an employment relationship is subject to Polish labour law regulations.

3. Inspections mentioned in subsections 1 and 2 above may be also conducted jointly by competent labour inspectors and employees supervising inspection activities as well as trainee labour inspectors, on the basis of an individual authorisation issued by Chief Labour Inspector or District Labour Inspector respectively.

### **Section 23**

1. During inspection activities, a labour inspector is entitled to:

- 1) free access to the premises, buildings and rooms of the inspected entity;
- 2) conduct inspections of buildings, rooms, workstations, machinery and equipment as well as technological and working processes;
- 3) demand from the entity under inspection, and from all of its employees and persons who are or used to be employed or who perform or used to perform work for the benefit of the inspected entity on grounds other than an employment relationship, including persons performing economic activity on their own account, written and oral explanations in relation to matters covered by the inspection as well as to summon and interrogate such persons in connection with the inspection;
- 4) demand presentation of documents related to construction, reconstruction or modernisation and start up of an employment establishment, technical plans and drawings, technical and technological documentation, results of expertises, examinations and measurements concerning production or other activity of the inspected entity, as well as to be provided with samples of raw materials and components used, manufactured or generated during production processes, in the amount necessary to make analyses or examinations in case they are related to the inspection underway;
- 5) demand presentation of personal files and any other documents connected with work performed by employees and other persons performing work on grounds other than an employment relationship;
- 6) become acquainted with decisions issued by other authorities competent for supervision and inspection of working conditions and their effects;
- 7) record processes and results of inspection described in point 2 above with sound or image recording equipment;
- 8) make copies or extracts of documents indispensable for inspection, as well as comparisons and calculations based on documents, or if necessary demand them from the inspected entity,
- 9) check the identity of persons executing work or staying on premises of the inspected entity, interrogate them and demand statements with regard to legality of employment or performance of any other paid activity;
- 10) resort to the assistance of surveyors and experts as well as accredited laboratories.

2. If there exists a justified concern, that providing a labour inspector with information about matters connected with inspection by an employee or a person referred to in subsection 1 point 3, could cause that employee or person any harm or charges related to provision of such information, a labour inspector may issue a decision about keeping the circumstances allowing to reveal the identity of that employee or person confidential, including their personal data.

3. In case of issuing a decision referred to in subsection 2 above, circumstances mentioned in that subsection remain for the attention of a labour inspector only. Interrogation report of an employee or a person may be presented to the employer only in a way which will render it impossible to reveal personal data mentioned in subsection 2.

4. The employer is entitled to appeal against the decision to keep personal data mentioned in subsection 2 above confidential, within a three-day period after the date of receipt of such a decision. Appeal against a labour inspector's decision shall be investigated by a relevant District Labour Inspector. The employer shall not participate in proceedings concerning the appeal and the proceedings shall remain an official secret.

5. If a District Labour Inspector considers the appeal justified, the interrogation report of an employee or a person shall be destroyed; a mention of destroying the interrogation report shall be made in an inspection report.

6. Chief Labour Inspector shall determine procedures concerning interrogation reports and other documents classified as an official secret.

#### **Section 24**

1. Labour inspectors are authorised to carry out inspection of the observance of the labour law provisions by enterprises, and in particular inspection of the state of occupational safety and health as well as inspection of compliance with regulations on legality of employment, without notice at any time of day or night and in the scope mentioned in section 10 subsection 1 points 3 and 4.

2. Inspections shall be carried out following the presentation of a business identity card and in compliance with subsections 3 and 5.

3. Inspection of an entrepreneur shall be performed following the presentation of a business identity card and a relevant authorisation to conduct an inspection.

4. The authorisation to conduct an inspection shall:

1) indicate legal basis for conducting the inspection;

2) indicate the inspecting authority;

3) include name, surname, official post and business identity card number of the person authorised to conduct the inspection;

4) specify the scope of the inspection;

5) specify the entity to be inspected;

6) specify the date of commencing and the envisaged date of completing the inspection;

7) include signature of a person issuing the authorisation and his official post;

8) instruct the inspected entity about its rights and obligations;

9) include date and place of issue of the authorisation.

5. If factual circumstances justify an immediate commencement of inspection of the entrepreneur, the inspection may be conducted after the presentation of a business identity card. The inspected entity shall be provided with an inspection authorisation mentioned in subsection 4 above in the period not exceeding 7 days after the inspection.

6. Inspection authorisations shall be issued by Chief Labour Inspector, his deputies or District Labour Inspectors and their deputies.

7. District Labour Inspectors may empower principal labour inspectors performing tasks of heads of sub-district offices to issue authorisations mentioned in subsections 3 and 5 above.

#### **Section 25**

Certified experts and specialists shall participate in inspections on the basis of an individual authorisation issued by Chief Labour Inspector or a District Labour Inspector respectively.

### **Section 26**

1. The inspection shall be conducted at the seat of the inspected entity and in other places, where its activities are performed and where financial documentation and personal files are kept.

2. Individual inspection activities may also be performed at the seat of an organizational unit of National Labour Inspectorate.

3. Prior to commencing inspection activities, a labour inspector informs the entity to be inspected about his presence except for cases in which such information could influence the inspection results.

4. A labour inspector is entitled to free movement on premises of the inspected entity without an obligation to obtain a pass or undergo a body search even if this is required by internal regulations of the inspected entity.

### **Section 27**

The inspected entity is obliged to secure measures and working conditions necessary to conduct an inspection and, in particular, to present documents and materials immediately on request of a labour inspector, ensure timely provision of information by persons mentioned in section 23 subsection 1 point 3 above, provide access to technical equipment and – as far as possible – a separate room with appropriate equipment.

### **Section 28**

Prior to checking the identity of the person referred to in section 23 subsection 1 point 9, a labour inspector is obliged to show his business identity card in such a way so the person could read and note down their personal data.

### **Section 29**

1. In the course of inspection activities a labour inspector collaborates with trade unions, personnel's self-government authorities, work councils and social labour inspection.

2. Collaboration referred to in subsection 1 consists particularly in:

- 1) providing information about the subject and scope of inspection being conducted;
- 2) analyzing reported comments and observations;
- 3) providing information about inspection results and decisions made;
- 4) providing advice and information related to labour law.

### **Section 30**

In the course of inspection activities a labour inspector and persons referred to in section 22 subsection 2, and article 25 are obliged to abide by occupational safety and health regulations, fire regulations and regulations on the protection of classified information.

### **Section 31**

1. Inspection findings are subject to documentation in the form of a report with an exception of subsection 10.

2. An inspection report should comprise:

- 1) full name of the inspected entity, its address and number from the official register of national economic entities (REGON) and tax identification number (NIP);
- 2) name and surname as well as position of the labour inspector;
- 3) name and surname of the person representing the inspected entity as well as name of the authority representing that entity;
- 4) date of commencing activity by the inspected entity and date of assuming the position by the person referred to in point 3 or date of appointing the authority referred to in point 3;
- 5) indication of days on which the inspection was carried out;

6) information about the execution of previous decisions and notices of the National Labour Inspectorate's officers as well as execution of motions, recommendations and decisions of other authorities for inspection and supervision of working conditions;

7) description of identified infringements of the law and other information of importance to the inspection results;

8) data of the person whose identification was checked and indication of the time, place and reasons for undertaking an identification check;

9) information about taking samples of raw and processed materials used, manufactured or generated in the course of production;

10) contents of oral decisions taken and information about their execution;

11) information about the number and nature of advice provided in relation to labour law;

12) specification of attachments comprised in the inspection report;

13) information about persons in whose presence the inspection was conducted;

14) at the request of the inspected entity – a mention of the information referred to as classified by the company;

15) a mention of reservations made or lack of reservations with regard to the contents of the inspection report and elimination of identified irregularities before the inspection was concluded;

16) date and place of signing the report by the inspecting person and by the person who represents the inspected entity.

3. The report shall be signed by the person who conducts the inspection and by the person or authority representing the inspected entity.

4. The inspected entity has the right to submit, prior to signing the inspection report, justified reservations with regard to findings comprised in the report.

5. Reservations shall be submitted in writing within 7 days following the receipt of the report.

6. In case of submitting reservations referred to in subsection 4 a labour inspector conducting the inspection is obliged to investigate them and – should the reservations prove justified – change or complement a relevant part of the report.

7. In the inspection report there shall be no corrections, cross-outs or additions made unless they are described at the end of report, with the exception of correcting obvious spelling and calculation mistakes, which are signed by the inspector who puts down the date of making each correction next to his signature.

8. Refusal to sign the inspection report by the person or authority representing the inspected entity shall not hinder a labour inspector from applying relevant legal measures provided for in the Act.

9. A copy of the inspection report is left with the inspected entity.

10. If no irregularities are identified in the course of an inspection, its outcome may be documented in the form of an official note which should contain a concise description of the factual state of matters during the inspection.

11. The official note is signed by a labour inspector. The provisions of subsection 9 are applied accordingly.

### **Section 32**

1. The model of a business identity card, which is referred to in section 24 subsection 2, is determined by means of an order of the Speaker of Parliament issued at the motion of Chief Labour Inspector. The said order of the Speaker of Parliament is subject to publication in the Official Journal of the Republic of Poland "Monitor Polski".

2. Models of forms used in the National Labour Inspectorate's inspection activity are determined by Chief Labour Inspector.

### **Section 33**

1. Based on findings made in the course of an inspection a competent labour inspector:

1) issues decisions, which are referred to in article 11 points 1-4 and points 6 and 7;

2) addresses motions referred to in article 11 point 8;

3) instigates legal proceedings and enters into legal proceedings in cases which are referred to in section 10 subsection 1 point 11;

4) undertakes other actions, if the right or obligation to undertake them results from separate regulations.

2. Legal measures referred to in subsection 1 points 1 and 2, which relate to territorial organizational units of the inspected entity, are addressed by a labour inspector to the inspected entity regardless of the inspector's territorial competence. If elimination of identified irregularities does not require a decision of the employer, or if the danger to life or health of workers cannot be avoided otherwise, decisions referred to in section 34 subsection 1 are addressed to the person managing a given territorial unit.

### **Section 34**

1. Decisions referred to in article 1 points 1-7 are issued:

- 1) in writing;
- 2) as an entry in the construction site log book;
- 3) orally.

2. A decision referred to in subsection 1 points 1 and 2, besides its contents, should also comprise legal basis, a deadline for elimination of identified irregularities and the right of appeal which the inspected entity is entitled to.

3. In case of issuing a decision in the form of an entry in a construction site log book, a Xerox copy or a written copy of the decision constitutes an attachment to the inspection report.

4. An oral decision referred to in subsection 1 point 3, is issued with a view to eliminating identified in the course of inspection irregularities with regard to occupational safety and health, provided that said irregularities can be eliminated when the inspection is still in progress.

5. The inspected entity is entitled to lodge an appeal with District Labour Inspector against a decision issued by a labour inspector in writing or as an entry in the construction site log book. The appeal should be lodged within 7 days following the receipt of the decision.

6. When an appeal is lodged against decisions issued in cases referred to in article 11 points 2-4, a District Labour Inspector may suspend execution of a given decision until the appeal is investigated, on condition that arrangements made by the inspected entity exclude immediate hazard to people's life or health.

### **Section 35**

The inspected entity which was issued with a decision referred to in section 11 points 1-7 is obliged to inform a relevant officer of National Labour Inspectorate of its implementation by the deadlines specified in the decision.

### **Section 36**

1. An improvement notice referred to in section 1 subsection 8, should comprise post inspection conclusions and their legal basis.

2. The inspected entity or an authority supervising the inspected entity which was issued with an improvement notice is obliged, by the deadline specified therein, but not later than within 30 days, to notify a relevant officer of National Labour Inspectorate of the time and manner of implementing the post inspection conclusions.

### **Section 37**

1. In case of identifying, in the course of an inspection, an offence consisting in the infringement of the regulations of the Act of 20 April 2004 on the promotion of employment and labour market institutions, within the scope specified in section 10 subsection 1 points 3 and 4, a competent labour inspector shall lodge a motion with a competent court of law to punish the persons responsible for identified irregularities.

2. A competent labour inspector shall notify competent authorities of the infringement of regulations, and in particular:

- 1) Social Insurance Institution – of the infringement of regulations with regard to social insurance;
  - 2) Revenue Inspection Office – of the infringement of fiscal law regulations;
  - 3) Police or Border Guard – of the infringement of regulations concerning foreigners.
3. District Labour Inspector shall notify, without any delay, the marshal of a relevant province of cases of infringing upon terms of running employment agencies specified in regulations on the promotion of employment and labour market institutions, District Labour Inspector shall notify, without any delay, a competent staroste of identified cases of infringing, by an unemployed person or an inspected entity, of regulations on the promotion of employment and labour market institutions.

## **Chapter 5**

### **Employees of National Labour Inspectorate**

#### **Section 38**

1. National Labour Inspectorate's employees are:
  - 1) Chief Labour Inspector and his deputies;
  - 2) District Labour Inspectors and their deputies;
  - 3) employees performing inspection activities;
  - 4) employees engaged in other posts.
2. Employees performing inspection activities are labour inspectors employed in one of the following posts:
  - 1) principal labour inspector – head of a sub-district office,
  - 2) principal labour inspector,
  - 3) senior labour inspector – chief specialist,
  - 4) senior labour inspector – specialist,
  - 5) senior labour inspector,
  - 6) labour inspector,
  - 7) junior labour inspector.
3. Chief Labour Inspector and his deputies, District Labour Inspectors and their deputies, and nominated employees of Chief Labour Inspectorate and District Labour Inspectorates are employees supervising inspection activities.
4. A list of employees nominated to supervise inspection activities is specified by Chief Labour Inspector or District Labour Inspectors – respectively.

#### **Section 39**

An employee of National Labour Inspectorate supervising or performing inspection activities shall be a person who:

- 1) is a Polish citizen;
- 2) has a complete capacity for legal actions and enjoys complete public rights;
- 3) has never been penalised for a deliberate criminal offence or a deliberate fiscal offence;
- 4) has a master's degree or equivalent education, and indispensable knowledge of issues which fall within the National Labour Inspectorate's scope of activity, and has passed a state exam before an examining board nominated by Chief Labour Inspector;
- 5) gives a guarantee of proper execution of professional duties;
- 6) has such health condition which allows them to be employed in a given position.

#### **Section 40**

1. Chief Labour Inspector nominates and dismisses:
  - 1) in the Chief Labour Inspectorate – a director and deputy director of the Chief Labour Inspector's Cabinet, directors and deputy directors of departments, a chief accountant, advisers, a spokesperson and heads of units;
  - 2) in District Labour Inspectorates – a chief accountant, principal labour inspectors – heads of sub-districts, advisers and heads of units;
  - 3) in the Training Centre – a director and deputy director and a chief accountant.
2. A person dismissed from any of the positions mentioned in subsection 1, who before nomination to the said position was a National Labour Inspectorate's employee, has the right to conclude an employment relationship in the post equivalent to the one occupied before the nomination.
3. An employment relationship with employees mentioned in subsection 1 and with employees mentioned in section 5 subsection 3, is concluded by means of nomination.

#### **Section 41**

1. An employment relationship with an employee supervising or performing inspection activities is concluded on the basis of nomination, preceded by a contract of employment for a specified period of time, no longer than 3 years, with the reservation of subsection 4.

2. Employees supervising or performing inspection activities are nominated by Chief Labour Inspector who also terminates an employment relationship with them.

3. The nomination depends on the participation in preparatory training for candidates for labour inspectors finalised with passing a state exam before the examining board nominated by Chief Labour Inspector.

4. Chief Labour Inspector may, in cases justified by qualifications or professional experience, nominate an employee performing inspection activities without earlier conclusion of an employment contract, and without observing the requirement of that person's participation in inspectors' preparatory training.

5. Chief Labour Inspector shall specify the scope and mode of conducting inspectors' preparatory training and a state exam mentioned in section 39, point 4.

#### **Section 42**

The employees mentioned in section 38 subsection 1 point 4, excluding the employees specified in section 40 subsection 1, are employed on the basis of contracts of employment.

#### **Section 43**

1. At the nomination ceremony a National Labour Inspectorate's employee submits a written pledge which reads as follows:

"I vow to serve the Polish State, observe legal order, perform duties of a National Labour Inspectorate's employee conscientiously, impartially, in line with the best knowledge and will".

2. The nomination deed comprises:

- 1) the employee's name and surname;
- 2) the date of nomination;
- 3) the name of an official position and organisational unit;
- 4) components and the amount of remuneration;
- 5) standard working time.

#### **Section 44**

1. Employees performing inspection activities are responsible for conscientious execution of their duties, in particular for presenting and documenting inspection results in a reliable and objective manner, and for observing state and official secrets.

2. The employees mentioned in subsection 1 in the scope of their activity are independent from any external influence and cannot have a stake in inspected entities' operations.

3. The employees mentioned in subsection 1 are obliged not to disclose information that an inspection is carried out following a complaint, unless the complainant agrees to it in writing.

#### **Section 45**

1. A National Labour Inspectorate's employee is obliged to keep secret information obtained in connection with performing official duties.

2. The duty not to disclose secrets is binding also after the employment comes to an end.

#### **Section 46**

1. A National Labour Inspectorate's employee is obliged to diligently perform official orders of their superiors.

2. If, in the employee's opinion, an official order is incompliant with legislation or bears the features of a mistake, the employee should present his reservations to the superior; in case of a written confirmation of an order, the employee is obliged to follow it, with the reservation of subsection 3.

3. The employee must not follow orders whose execution would be a crime or would pose a threat of an irreparable loss.

#### **Section 47**

1. An employee performing inspection activities shall not conduct any political activity.
2. An employee mentioned in subsection 1, striving to be elected as a member of the lower or upper chamber of Parliament, is granted unpaid leave for the time of an election campaign.

#### **Section 48**

1. A National Labour Inspectorate's employee shall not carry out activities which would threaten the National Labour Inspectorate's interest or be contrary to the inspectorate's tasks, and would oppose employee's duties or may give rise to a suspicion that the employee is not impartial or disinterested.
2. A National Labour Inspectorate's employee shall not undertake any paid work without a prior consent by Chief Labour Inspector.

#### **Section 49**

1. An employee performing inspection activities is subject to periodic qualification assessments at least once in three years.
2. The assessment is made by the employee's superior, who informs the employee of the contents of the qualification assessment.
3. The employee can appeal against the qualification assessment to Chief Labour Inspector within 14 days from being informed of its contents.
4. Chief Labour Inspector shall specify the dates and mode of conducting periodic qualification assessments.

#### **Section 50**

1. If it is required by the needs of the institution, an NLI's employee can be ordered, for three months in a calendar year, to perform work other than the one specified in the nomination deed or the contract of employment, but which is in accord with the employee's qualifications. In the said period the employee is entitled to remuneration adequate to the work performed, yet no lower than so far.
2. In case of reorganisation of the National Labour Inspectorate's unit, an employee supervising or performing inspection activities can be transferred to another official position, which is in accord with the employee's qualifications, if owing to liquidation of the post occupied by the employee it is impossible to continue his employment in the said post. After the transfer the employee is entitled to remuneration adequate to the work performed, yet for six months it shall not be lower than so far.
3. If it is necessary due to special needs of National Labour Inspectorate, an employee supervising or performing inspection activities can be transferred to another post, which is in accord with his qualifications and equivalent from the point of view of remuneration.
4. A National Labour Inspectorate's employee can, at their request or consent, be transferred to work in some other organisational unit.
5. In justified cases an employee supervising or performing inspection activities can be transferred, for a period of up to six months, to another organisational unit, to work which is in accord with qualifications possessed by the employee. In the period of transfer the employee is entitled to remuneration adequate to the work performed, but no lower than so far. Such a transfer is admissible only once in two years.
6. It shall be forbidden, without the concerned person's consent, to transfer, for some period of time, a pregnant woman or an employee taking care of a child below 14 years of age to an organisational unit located in another place, and also in cases when the employee's important personal or family reasons are a hindrance to such a transfer.

### **Section 51**

1. An employee supervising or performing inspection activities, officially posted to perform tasks outside the permanent place of work, is entitled, with the reservation of subsection 2, to a refund of travel and accommodation costs and allowances according to the rules specified in the provisions adopted on the basis of section 77<sup>5</sup>§ 2 of the Labour Code.

2. An employee mentioned in subsection 1, in the national territory, has the right to receive a daily allowance in a double amount.

### **Section 52**

Chief Labour Inspector may grant, to an employee supervising or performing inspection activities, paid leave for improving the health condition – on the basis of a referral to treatment in a health resort for a period specified in the said referral, not exceeding 30 days in a calendar year.

### **Section 53**

1. A National Labour Inspectorate's employee is entitled to an extra benefit for many-year work, which equals 5% of the employee's basic monthly remuneration after five years of work. The said extra benefit rises by 1% for each next year of work until it reaches 20% of the basic monthly remuneration.

2. The periods of work which give the right to an extra benefit for many-year work shall comprise all previous, finished periods of employment and other proven periods, if by virtue of separate regulations, they are included in the period of work on which employee rights depend.

3. The periods of work mentioned in subsection 2, shall not comprise periods of employment in a communist party (Polish Workers' Party and Polish United Workers' Party), and in the state security bodies in the meaning of section 2 of the Act of 18 October 2006 on disclosing information on documents of the state security bodies from the period 1944-1990 and the contents of those documents (Official Journal of Laws, No 218, item 1592).

### **Section 54**

1. National Labour Inspectorate's employees are entitled to jubilee rewards in the following amounts:

- 1) after 20 years of work – 75% of their monthly remuneration;
- 2) after 25 years of work – 100% of their monthly remuneration;
- 3) after 30 years of work – 150% of their monthly remuneration;
- 4) after 35 years of work – 200% of their monthly remuneration;
- 5) after 40 years of work – 300% of their monthly remuneration;
- 6) after 45 years of work – 400% of their monthly remuneration.

2. The periods of work mentioned in subsection 1 shall comprise all previous, finished periods of employment and other proven periods, if by virtue of separate regulations, they are included in the period of work on which employee rights depend.

3. The periods of work mentioned in subsection 2, shall not comprise periods of employment in a communist party (Polish Workers' Party and Polish United Workers' Party), and in the state security bodies in the meaning of section 2 of the Act of 18 October 2006 on disclosing information on documents of the state security bodies from the period 1944-1990 and the contents of those documents.

### **Section 55**

A company reward fund is established in National Labour Inspectorate, in the amount of 3% of envisaged personnel remuneration. Chief Labour Inspector shall specify the amount and rules of granting individual rewards from the said fund.

### **Section 56**

1. A National Labour Inspectorate's employee who is about to go to an old-age pension or disability pension is entitled to a one-time severance payment equal to his monthly remuneration, and if the said employee has worked for at least:

- 1) ten years – equal to two-month remuneration;
- 2) fifteen years – equal to three-month remuneration;
- 3) twenty years – equal to four-month remuneration.

2. The periods of work mentioned in subsection 1, shall comprise all previous, finished periods of employment and other proven periods, if by virtue of separate regulations, they are included in the period of work on which employee rights depend.

3. The periods of work mentioned in subsection 2, shall not comprise periods of employment in a communist party (Polish Workers' Party and Polish United Workers' Party), and in the state security bodies in the meaning of section 2 of the Act of 18 October 2006 on disclosing information on documents of the state security bodies from the period 1944-1990 and the contents of those documents.

4. The severance payment mentioned in subsection 1 shall be calculated like a financial equivalent for annual leave.

### **Section 57**

1. In the case of terminating an employment relationship with a National Labour Inspectorate's employee due to liquidation of an organisational unit, or its reorganisation which renders it impossible to continue the employee's employment relationship, the National Labour Inspectorate's employee is entitled to an old-age pension, if a man has turned 60, and a woman has turned 55, and they have a required period of employment.

2. In the case of terminating an employment relationship with an employee supervising or performing inspection activities, for reasons specified in:

- 1) section 62 subsection 1 point 3,
- 2) section 62 subsection 1 point 6, excluding the case when the employee refuses to be employed in the post mentioned in the said provision,
  - the said employee is entitled to an old-age pension if a man has turned 60, and a woman has turned 55, and they have a required period of employment.

3. Provisions of subsections 1 and 2 shall be applicable to persons born before 1 January 1949.

### **Section 58**

1. Working time of National Labour Inspectorate's employees shall not exceed 8 hours a day and on average 40 hours a week in the adopted settlement period no longer than 8 weeks.

2. In cases justified by the type of work and its organisation, such working time schedules may be applied in which it is permissible to extend working time to 12 hours a day. Yet, in the said schedules working time may not exceed 40 hours of work a week on average, in the adopted settlement period no longer than 12 weeks.

3. If it is required by the needs of the institution, a National Labour Inspectorate's employee may be engaged outside normal working hours, and in exceptional cases also at night, on Sundays and holidays.

4. For work on Sunday, a National Labour Inspectorate's employee is entitled to a day off work in the nearest week, and for work on a holiday – some other free day.

5. Provisions of subsections 2 and 3 are not applicable to pregnant women and in other cases specified in separate provisions.

6. Provisions of subsections 2 and 3 are applicable to employees who take care of children below 8 years of age on condition that they agree to it.

### **Section 59**

1. A working time schedule in a week and working time amount on each day of the week are specified by Chief Labour Inspector.

2. For work performed at a superior's order outside normal hours, a National Labour Inspectorate's employee is entitled to time off work in the same amount, yet the said time off can be granted, at the employee's request, in the period directly preceding or following annual leave.

3. A National Labour Inspectorate's employee engaged in a managerial position is entitled to time off for work performed outside normal hours, at night and on Sundays or holidays.

### **Section 60**

A National Labour Inspectorate's employee is, by virtue of the law, suspended in performing official duties in the case if being temporarily arrested – until the employment relationship expires, unless it was terminated earlier.

### **Section 61**

1. Chief Labour Inspector may suspend an employee performing inspection activities in execution of official duties when criminal or disciplinary proceedings have been initiated with regard to that employee.

2. The suspension mentioned in subsection 1 shall not last longer than three months.

3. In the period of being suspended, as mentioned in subsection 1, the employee shall retain the right to remuneration and other benefits due on the basis of an employment relationship.

### **Section 62**

1. Termination of an employment relationship with a nominated employee performing inspection activities may take place by means of notice in the case of:

1) receiving a negative qualification assessment, confirmed by a repeated assessment with negative results, which may not be made earlier than after a three-month period;

2) liquidation of the National Labour Inspectorate's organisational unit or its reorganisation, if it is impossible to transfer the employee to some other post in the same unit;

3) loss, not of one's own fault, of powers required to perform work in the post held, if there is no possibility to offer the employee a job in some other post adequate to the possessed qualifications;

4) the employee's failure to give a guarantee of proper execution of official duties;

5) criminal proceedings which have been underway against the employee for a period longer than three months;

6) loss of physical or mental ability to work in the post held, confirmed by a certificate from the certifying physician of the Social Insurance Institution, if there is no possibility to engage the employee in another post, suitable to the employee's state of health and professional qualifications, or when the employee refuses to accept such work;

7) the employee reaching the age of 65, if the period of employment enables the employee to have the right to old-age pension.

2. The notice period for an employment relationship is three months and it finishes on the last day of the month.

### **Section 63**

1. In the case of terminating an employment relationship with a nominated employee performing inspection activities, for reasons specified in section 62 subsection 1 point 2, in the period before the end of employment and start of some other job or economic activity, the employee is entitled to a financial benefit, for a period no longer than 6 months, calculated like a financial equivalent for annual leave. The employee who has obtained the right to old-age pension is not entitled to the said financial benefit.

2. If the former employee receives a sickness or maternity benefit in the period mentioned in subsection 1, the amount of financial benefit shall be reduced by that amount.

3. The period of receiving the financial benefit mentioned in subsection 1 is included in the periods of work required for obtaining or retaining employee rights and in the periods of employment in the meaning of provisions on old-age and disability pensions from the Social Insurance Fund – on such conditions on which a period of receiving unemployment benefit is included and which are specified in the provisions on promotion of employment and labour market institutions. National Labour Inspectorate pays the social insurance contribution on the said financial benefit, in line with the rules specified for remuneration paid during an employment relationship.

#### **Section 64**

1. An employment relationship with a nominated employee performing inspection activities is terminated, by virtue of the law, without notice, in the case of:

1) a valid judgement which imposes a penal measure of the loss of public rights or a prohibition to exercise the profession;

2) a valid penalty with a disciplinary measure of expulsion from work in National Labour Inspectorate;

3) loss of powers, of one's own fault, which are indispensable to perform work in the post held.

2. An employment relationship with a nominated employee performing inspection activities is terminated without notice, by virtue of the law, also in the case of loss of Polish citizenship.

3. An employment relationship with a nominated employee performing inspection activities may be terminated without notice, because of the employee's fault in the case of a serious offence against basic employee's duties or a legally valid conviction for an intentional offence.

4. Termination, without notice, of an employment relationship with a nominated employee performing inspection activities may also take place in the case of the employee's absence at work due to an illness lasting for more than a year or isolation due to an infectious disease, and also in the case of justified absence from work for other reasons – after the elapse of periods envisaged in section 53 of the Labour Code.

5. In the case of inability to work due to an illness, mentioned in subsection 4, an employee supervising or performing inspection activities retains the right to financial benefits for a period envisaged in the provisions on financial benefits from social insurance in the case of an illness and maternity.

#### **Section 65**

1. Termination of an employment relationship with a nominated employee performing inspection activities may take place:

1) by means of the parties' agreement;

2) at a three-month notice submitted by the employee.

#### **Section 66**

During the notice period an employee supervising or performing inspection activities may be discharged from performing duties, while retaining the right to remuneration and other benefits due on the basis of an employment relationship.

#### **Section 67**

The provisions of this chapter do not contravene provisions on the special protection of employees with regard to notice and termination of an employment relationship.

#### **Section 68**

A nominated employee has the right to lodge a complaint against Chief Labour Inspector's decisions in matters mentioned in section 61 with an administrative court.

**Section 69**

1. In matters resulting from an employment relationship of National Labour Inspectorate's employees, not covered by the provisions of this Act, the Labour Code provisions and other labour law regulations shall be applicable.

2. Disputes related to claims from an employment relationship of National Labour Inspectorate's employees shall be settled by labour courts, unless the Act specifies otherwise.

**Section 70**

Chief Labour Inspector shall establish the rules of remuneration, rules of promotion and qualification requirements related to education and professional experience of National Labour Inspectorate's employees.

## **Chapter 6**

### **Order and disciplinary liability**

#### **Section 71**

1. A National Labour Inspectorate's nominated employee bears order or disciplinary liability for breach of professional duties.
2. An admonition is an order penalty for a less serious fault.
3. Disciplinary penalties include:
  - 1) a reprimand;
  - 2) a reprimand with a warning;
  - 3) a reprimand accompanied by depriving the employee of the possibility of promotion to a higher remuneration level or a higher post for a period of 2 years;
  - 4) transfer to an inferior post accompanied by lowering basic remuneration by one category;
  - 5) expulsion from work in National Labour Inspectorate.
4. In disciplinary matters judgements are issued, on the principle of independence:
  - 1) in the first instance – by disciplinary commissions, established for one or more District Labour Inspectorates;
  - 2) in the second instance – by the Chief Labour Inspector's Appeal Disciplinary Commission.

#### **Section 72**

1. An admonition is given in the written form by Chief Labour Inspector, or – on the Chief Labour Inspector's authorisation – by a District Labour Inspector.
2. The employee may, within 7 days from being given an admonition, lodge a protest with Chief Labour Inspector.
3. Not overruling the protest within 14 days since the day of its submission is equal to accepting the protest.
4. The employee who lodged the protest may – within 14 days from the day of being informed of its overruling – apply to a labour court and ask for cancelling the penalty imposed upon him.

#### **Section 73**

1. Disciplinary proceedings shall not be initiated after 3 months from having learned, by a superior, of the committed fault; no proceedings shall be commenced nor a judgement on penalty issued after 3 years from committing a fault. When a deed bears features of a crime, disciplinary limitation shall not occur earlier than it is envisaged in the Penal Code.
2. The accused person may appoint an advocate, also from among nominated employees of National Labour Inspectorate.
3. Disciplinary proceedings may be continued in the case of unjustified absence of the employee.
4. Costs of disciplinary proceedings are covered by National Labour Inspectorate.

#### **Section 74**

Members of disciplinary commissions mentioned in section 71 subsection 4, including their chairmen and vice-chairmen, are nominated by Chief Labour Inspector for a period of four years from among those nominated employees of National Labour Inspectorate, who give a guarantee of proper execution of duties of a disciplinary commission's member.

#### **Section 75**

1. A disciplinary spokesperson in National Labour Inspectorate is nominated by Chief Labour Inspector for the term of office equal to that of disciplinary commissions.
2. In particularly justified cases Chief Labour Inspector may nominate some other employee to conduct a disciplinary case.

### **Section 76**

Disciplinary proceedings are composed of clarification proceedings and proceedings before a disciplinary commission.

### **Section 77**

1. Chief Labour Inspector, in the case of being informed that a nominated employee has transgressed against professional duties or offended dignity of the post held, orders the disciplinary spokesperson to initiate disciplinary proceedings.

2. The disciplinary spokesperson is obliged to follow Chief Labour Inspector's orders.

### **Section 78**

1. The disciplinary spokesperson initiates disciplinary proceedings by issuing a decision on opening clarification proceedings, in which the causes of it are indicated.

2. A certified copy of the judgement is forwarded to the accused person and the District Labour Inspector.

3. In the course of clarification proceedings, the disciplinary spokesperson undertakes actions necessary for complete clarification of the case, collects and records evidence, in particular documents, statements and explanations.

4. The disciplinary spokesperson presents objections formulated against the accused person and receives explanations and conclusions from that person, and before finalising clarification proceedings acquaints the defendant with the relevant evidence collected, and makes a note on having performed this particular activity; the said note is signed by both the spokesperson and the defendant.

5. After completing clarification proceedings, the disciplinary spokesperson submits, to Chief Labour Inspector, materials from proceedings along with a written, justified suggestion to discontinue disciplinary proceedings or to refer the case to a disciplinary commission.

### **Section 79**

1. Chief Labour Inspector orders the disciplinary spokesperson to lodge a motion for penalising the accused person with the disciplinary commission or issues a decision on discontinuing disciplinary proceedings; the provision of section 78 subsection 2 is applied accordingly.

2. The disciplinary spokesperson forwards, to the disciplinary commission, a motion for penalising the accused employee, along with materials from proceedings, delivers a certified copy of the motion to the accused person and informs him of the right to appoint an advocate, unless the advocate has already been appointed.

3. A motion for penalising the accused employee should comprise:

1) name, surname, home address, name of organisational unit and the post held by the accused person,

2) exact specification of the alleged fault, including indication of the place and time when it occurred,

3) a proposed disciplinary penalty,

4) rationale to the motion,

5) a list of evidence and persons summoned to a disciplinary hearing.

4. After obtaining a certified copy of the penalty motion, the accused person and the advocate may, within 14 days since the date of its receipt, submit motions and present evidence to the disciplinary commission.

5. If penal proceedings have been initiated against the accused person with regard to the same deed which is the object of disciplinary proceedings, the disciplinary spokesperson – during clarification proceedings, or a judging team – during proceedings before a disciplinary commission – may suspend disciplinary proceedings until the time of valid finalisation of penal proceedings; the disciplinary spokesperson's decision is delivered to the accused person and

the advocate, while a disciplinary commission's decision – is also delivered to the disciplinary spokesperson.

#### **Section 80**

1. A disciplinary commission independently decides on factual and legal issues; the commission is obliged to observe a valid court judgement stating the guilt of the accused person.
2. Members of a disciplinary commission are independent while judging.
3. A disciplinary commission issues judgements in a three-person judging team, which is chaired by the commission's chairman or vice-chairman.

#### **Section 81**

1. Chairman of the judging team sets the date of the hearing; he/she decides on communicating the said date to the disciplinary spokesperson and the advocate, if one was appointed and summons the accused person, and if need be – also witnesses and experts – to the hearing.
2. In the case when the disciplinary spokesperson advocated for ruling a penalty of expulsion from work in National Labour Inspectorate, and the accused employee does not have a chosen advocate, chairman of the judging team appoints an advocate from among nominated employees.
3. Summons and notifications mentioned in subsection 1 should be delivered no later than 7 days before the date of the hearing.
4. In the proceedings before a disciplinary commission, the accused person and the advocate have the right to get acquainted with the dossier of the proceedings.
5. Participation of the disciplinary spokesperson in the hearing is obligatory.
6. Unjustified absence of the accused person or the advocate at the hearing does not stop investigation of the case.

#### **Section 82**

1. Chairman of the judging team leads the hearing.
2. The course of the hearing is registered in the form of minutes.
3. The minutes should include in particular:
  - 1) indication of the time and place of holding a hearing and the participating persons;
  - 2) the contents of explanations, statements and motions by the participants of the hearing;
  - 3) decisions made during the hearing;
  - 4) if necessary, an account on any other circumstances related to the course of the hearing;
  - 5) signatures of the judging team's chairman and a recording clerk.
4. The hearing is open. In justified cases the judging team may exclude openness of a part or whole hearing.
5. In the beginning of the hearing the disciplinary spokesperson reads out the motion for punishing the accused person, and afterwards the judging team's chairman asks the defendant whether he or she confesses committing the offence of which he/she is accused and whether he/she intends to present explanations and what would they be.
6. Chairman of the judging team gives the floor to the accused person in order to present explanations, and then, according to needs, interrogates witnesses, accepts statements, examines documents and collects other kinds of evidence.
7. During the hearing the disciplinary spokesperson, the accused person and the advocate may submit declarations, motions and present evidence.
8. Adjournment of the hearing may take place only due to important reasons; the adjournment is decided by chairman of the judging team.
9. The hearing is adjourned in the case of the failure to come to it by the party who was not delivered the summons, or in the case of the party's justified absence.
10. The adjourned hearing is continued, unless the composition of the judging team has changed.

11. Immediately before finalising the hearing, chairman of the judging team gives the floor to the disciplinary spokesperson, advocate and the accused person.

### **Section 83**

1. A disciplinary commission, after holding the hearing and internal consultations, issues a judgement on:

- 1) penalising;
- 2) acquittal;
- 3) discontinuing the proceedings.

2. The judgement on discontinuation of proceedings is made by a disciplinary commission when:

- 1) the accused person is not subject to the commission's competence;
- 2) the accused person has died;
- 3) the deadline for commencing disciplinary proceedings has passed;
- 4) the disciplinary spokesperson, at the Chief Labour Inspector's order, has withdrawn a motion for punishing the offender.

3. The judgement on discontinuation of proceedings may also be made by a disciplinary commission during a closed session.

4. Internal consultations are confidential; only members of the judging team and the recoding clerk – if need be, remain in the room where such consultations are held.

5. The judgement is made by majority of votes. The voting is held separately with regard to guilt and separately with regard to penalty; a member of the judging team may not refrain from voting.

6. A member of the judging team whose decision was voted down, when signing the ruling, has the right to point out his separate vote in the judgement. The person submitting a separate opinion may prepare a written justification to be included in the proceedings dossier.

### **Section 84**

1. A disciplinary commission imposes a penalty taking account of the degree of guilt, its social harmfulness and effects of the offence, as well as the accused person's behaviour before and after committing the offence.

2. When the accused person commits several offences, one joint penalty is inflicted for all offences.

3. The judgement on penalising should contain:

1) the name of the disciplinary commission, names and surnames of members of the judging team, of the disciplinary spokesperson and a recording clerk, the date of hearing the case and issuing a judgement;

2) the name, surname, home address, name of organisational unit and official post of the accused person;

3) detailed specification of the offence of which the person has been accused;

4) conclusion on the guilt;

5) specification of the penalty inflicted;

6) instruction on the deadline and mode of lodging an appeal;

7) signatures of the judging team's members.

4. The judgement should be announced immediately after finalising the hearing and holding a consultation meeting.

5. In exceptional cases passing a judgement may be adjourned for a period no longer than 3 days. The date of giving the judgement shall be communicated to the parties by chairman of the judging team immediately after deciding on adjournment in passing the judgement.

6. After announcing the judgement, chairman of the judging team presents orally the essential motives of the judgement.

7. The judgement shall be accompanied by a written justification, which should mention factual findings by indicating which facts the disciplinary commission found to be confirmed or

not confirmed, on what evidence it relied in this respect and why contrary evidence was not believed, and it shall mention the circumstances which the disciplinary commission took account of while inflicting the penalty.

8. Justification is drawn up by chairman of the judging team; the justification is signed by all members of the judging team.

9. A written judgement along with its justification is delivered to the disciplinary spokesperson, the accused person and the advocate within 14 days from the day when it was given or issued in the mode specified in section 83 subsection 3.

### **Section 85**

1. The disciplinary spokesperson, the accused person and the advocate have the right to appeal against the disciplinary commission's judgement to the Disciplinary Commission of Appeal.

2. The appeal shall be lodged via mediation of the disciplinary commission's chairman within 14 days from the day on which the judgement was delivered.

3. The chairman issues a decision on refusal to accept an appeal if it was lodged after the deadline or by an unauthorised person.

4. The chairman can restore the deadline for lodging an appeal if the original deadline was not observed due to reasons independent of the party; the motion for restoration of the deadline shall be submitted within 7 days from the date on which the hindrance disappeared. The said motion should be accompanied by an appeal.

5. Decisions on refusal to accept an appeal and refusal to restore the deadline for submitting an appeal, mentioning the basis of the said refusal, are delivered to the interested person along with instruction on the right to submit a complaint and the deadline for it; the interested party has the right to appeal against the said decisions to the Disciplinary Commission of Appeal within 7 days from delivery of the decisions.

6. The appeal can be withdrawn until the commencement of the hearing in the appealing proceeding. The appeal lodged for the benefit of the accused person may not be withdrawn without that person's consent.

### **Section 86**

1. The Disciplinary Commission of Appeal discontinues appeal proceedings in the case of:

- 1) lodging the appeal by a person who was not entitled to do so;
- 2) an unjustified restoration of the deadline for lodging an appeal;
- 3) an effective withdrawal of the appeal.

2. The discontinuation of the appeal proceedings can also take place during a secret session.

### **Section 87**

1. The Disciplinary Commission of Appeal, after holding a hearing:

- 1) upholds the judgement which was the subject of the appeal;
- 2) reverses the judgement completely or in part and gives a new judgement as to the essence;
- 3) reverses the judgement and refers the case for a new investigation by a judging team of different composition;
- 4) reverses the decision and discontinues the proceedings in cases specified in section 83 subsection 2, points 1-3.

2. The Disciplinary Commission of Appeal may inflict a stricter penalty from the one imposed by a disciplinary commission only in cases, when the decision was appealed against to disadvantage of the accused person.

3. In the proceedings before the Disciplinary Commission of Appeal, the provisions on the proceedings before a disciplinary commission are applicable.

### **Section 88**

1. The accused person and Chief Labour Inspector have the right to appeal against a judgement of the Disciplinary Commission of Appeal to the Court of Appeal relevant due to the place of residence of the accused person – a labour court and social security court.

2. Examination of the appeal shall be conducted by applying the provisions of “Code of civil proceedings on appeals”. There is no right to lodge an annulment appeal from a judgement by a court of appeal.

### **Section 89**

1. The judgement by a disciplinary commission becomes valid when an appeal is not lodged by the deadline and when appeal proceedings are discontinued, and the judgement of the Disciplinary Commission of Appeal becomes valid when an appeal is not lodged with a court by the deadline.

2. After the judgement becomes valid, chairman of a disciplinary commission sends its certified copy along with rationale to the accused person and Chief Labour Inspector, who orders to execute the decision.

3. A certified copy of the decision along with rationale is included in the employee’s personal files.

### **Section 90**

1. Disciplinary penalties specified in section 71 subsection 3 points 1 and 2 become erased after two years, and disciplinary penalties specified in section 71 subsection 3 points 3 and 4 become erased after three years since the date when the decision becomes binding.

2. The penalty of a reprimand and a reprimand with a warning may be erased earlier on the penalized employee’s motion. The said decision is made by Chief Labour Inspector not earlier than after one year since the date on which the decision became binding, taking into account the employee’s impeccable behaviour in the said period.

3. In cases mentioned in subsections 1 and 2, certified copies of the decision, along with rationale, are removed from the employee’s personal files and the penalty is regarded as non-existent.

### **Section 91**

1. The accused person and the disciplinary spokesperson may submit a motion that investigation proceedings be reopened if new facts or evidence, unknown to the disciplinary commission, which may, however, significantly influence the contents of the judgement, occur after the valid judgement has been passed.

2. Resumption of the proceedings to disadvantage of the accused person may take place only when it turns out that the judgement was passed as a result of a criminal offence confirmed by a valid sentence of a court.

3. A motion for reopening proceedings may be lodged within 30 days since the disclosure of the circumstances mentioned in subsections 1 and 2.

4. Resumption of the proceedings after the period of disciplinary responsibility passes may take place only to the advantage of the penalised person.

5. The issue of resuming proceedings is decided during a closed session, by a disciplinary commission of different composition than the one which issued a valid judgement.

6. The decision on refusal to resume proceedings, made by a disciplinary commission, may be complained against to the Disciplinary Commission of Appeal; the provision in section 85 subsection 5 is applied accordingly.

7. The decision on refusal to resume proceedings, made by the Disciplinary Commission of Appeal, may not be complained against.

### **Section 92**

In proceedings before disciplinary commissions, mentioned in section 71 subsection 4, in matters which are not regulated in this chapter, the provisions of "Code of penal procedure" shall be applied accordingly.

### **Section 93**

Chief Labour Inspector shall specify, by means of an order, organisation, composition and working mode of disciplinary commissions, mentioned in section 71 subsection 4, and working mode of the disciplinary spokesperson.

## **Chapter 7 Amendments to binding regulations**

### **Section 94**

In the Act of 17 June 1996 on enforcement proceedings in administration (Official Journal of Laws of 2005, No 229, item 1954) the following amendments are made:

1) in article 121 § 2-4 read as follows:

"§ 2. With the exemption of § 5 every time a fine is imposed it shall not exceed the amount of PLN 10,000 and with regard to legal persons and organizational entities devoid of legal personality it shall not exceed the amount of PLN 50,000.

§ 3. If a number of fines is imposed it shall not exceed the total amount of PLN 50,000 and with regard to legal persons and organizational entities devoid of legal personality it shall not exceed the amount of PLN 20,000.

§ 4. If enforcement proceedings relate to fulfilment by a dutyholder of the duty resulting from regulations of the construction law a single fine shall be imposed to enforce compliance.";

2) Article 126 reads as follows:

"Article 126. On the motion of a dutyholder who has fulfilled the duty, the fines paid or vindicated in order to enforce compliance may be, in justified cases, reimbursed in the amount of 75% or completely. State enforcement authorities may reimburse the fine with the consent of a higher-level authority."

### **Section 95**

In the Act of 26 June 1974 – The Labour Code (Official Journal of Laws of 1998 No 21 item 94 with further amendments) the following amendments are made:

1) in article 9<sup>1</sup> § 4 reads as follows:

"§ 4. The employer shall forward the agreement to a competent District Labour Inspector.";

2) in article 151<sup>7</sup> § 6 reads as follows:

"§ 6. On a written motion of the employee referred to in § 2, the employer shall notify a competent District Labour Inspector of the fact of engaging workers to provide work at night time.";

3) in article 209:

a) § 1 reads as follows:

"§ 1. The employer commencing activity is obliged, within the period of 30 days from the day of commencing this activity, to notify in writing a competent District Labour Inspector, and a competent State Sanitary Inspector of the place, kind and scope of the conducted activity.",

b) § 4 reads as follows:

"§ 4. A competent District Labour Inspector or a competent state sanitary inspector may oblige the employer who conducts activity causing particular hazards to workers' health or life to periodically update the information referred to in § 1.";

4) in article 234 § 2 reads as follows:

"§ 2. The employer is obliged to notify without delay a competent District Labour Inspector and prosecutor of every fatal, serious and collective accident at work and of any other accident which produced the above consequences and was related to work if it can be deemed an accident at work.";

5) in article 235 § 1 reads as follows:

"§ 1. The employer is obliged to report without delay, to a competent officer of State Sanitary Inspection and to a competent District Labour Inspector, every case of identified occupational illness or suspicion of such an illness.";

6) Article 281 reads as follows:

"Article 281. Every employer or person acting on his behalf who:

- 1) concludes a civil law job contract in conditions in which, according to article 22 § 1 a contract of employment should be concluded,
- 2) does not confirm in writing a contract of employment concluded with an employee,
- 3) terminates or dissolves an employment relationship with an employee without notice, thereby infringing upon labour law provisions in a blatant way,
- 4) applies with regard to employees other penal measures than those provided for in labour law regulations on order liability of workers,
- 5) infringes upon regulations on working time or regulations on employee rights related to parenthood and employment of juveniles,
- 6) does not maintain documentation on matters connected with an employment relationship and personal files of employees,
- 7) leaves documentation on matters connected with an employment relationship and personal files of employees in conditions posing the risk of damage or destruction shall be subject to a fine from PLN 1,000 to PLN 30,000";

7) In article 282 § 1 reads as follows:

"§ 1 Whoever obliged to do so:

- 1) fails to pay in due time remuneration for work or any other benefit which an employee or an employee's authorized family member is entitled to, lowers the amount of this benefit without justification or makes unjustified deductions,
- 2) fails to grant due to an employee leave or lowers the amount of this leave without justification,
- 3) fails to issue an employee with an employment certificate shall be subject to a fine from PLN 1,000 to PLN 30,000";

In article 283 § 1 and 2 read as follows:

"§ 1. Every person bearing responsibility for the state of occupational safety and health or managing the work of employees or other natural persons who fails to comply with regulations and rules of occupational safety and health shall be subject to a fine from PLN 1,000 to PLN 30,000.

§ 2. The same fine shall be imposed on anyone who:

- 1) contrary to the binding duty fails to notify a competent District Labour Inspector and a competent state sanitary inspector within the period of 30 day of the place, kind and scope of conducted activity as well as of the change of place, kind and scope of conducted activity and of the change of technology if the change of technology may cause greater hazard to employees' health,
- 2) contrary to the binding duty fails to ensure that construction or reconstruction of a building or its parts in which workrooms are envisaged, is carried out on the basis of designs taking account of occupational safety and health requirements and positively appraised by licensed surveyors,
- 3) contrary to the binding duty equips workstations with machines and other technical devices which do not fulfil the requirements concerning conformity assessment,
- 4) contrary to the binding duty provides employees with personal protective equipment which does not fulfil the requirements concerning conformity assessment,
- 5) contrary to the binding duty uses:
  - a) materials and technological processes without prior determination of the level of their arduousness to the health of employees and without taking appropriate preventative measures,
  - b) chemical substances and preparations not labelled in a visible manner allowing for their identification,
  - c) dangerous chemical substances and preparations without their respective datasheets and without packaging which provides protection from their arduousness, fire or explosion,

- 6) contrary to the binding duty fails to notify a competent District Labour Inspector or another competent authority of a fatal, serious and collective accident at work and of any other accident which produced the above consequences and was related to work if it can be deemed an accident at work, fails to report an occupational illness or a suspicion of an occupational illness, fails to provide information on an accident at work or an occupational illness or submits untrue information, evidence and documents concerning such accidents and illnesses,
  - 7) fails to execute within the indicated time limit an enforceable order of a National Labour Inspectorate's officer,
  - 8) obstructs the activity of a National Labour Inspectorate's officer, in particular makes it impossible to conduct a visitation of a workplace or fails to provide information indispensable for conducting said activity,
  - 9) engages a child under 16 years of age to work or other paid activities without authorization of a competent labour inspector.",
- 9) in article 304:
- a) § 1 reads as follows:  
"§ 1. The employer is obliged to ensure safe and healthy working conditions which are referred to in article 207 § 2 to natural persons providing work on basis other than an employment relationship in an employment establishment or in another place designated by the employer as well as to persons conducting an economic activity on their own account in an employment establishment or in another place designated by the employer.",
  - b) § 3 reads as follows:  
"§ 3. Duties laid out in article 207 § 2 shall be applied respectively to entrepreneurs who, not being employers themselves, organize work performed by natural persons:
    - 1) on basis other than an employment relationship,
    - 2) conducting an economic activity on their own account.";
- 10) Article 304<sup>1</sup> reads as follows:  
"Article 304<sup>1</sup>. Duties referred to in article 211, in the scope specified by the employer or any other entity organizing work, shall also apply to natural persons providing work on basis other than an employment relationship in an employment establishment or in another place designated by the employer as well as to persons conducting an economic activity on their own account in an employment establishment or in another place designated by the employer or by any other entity organizing work."

### **Section 96**

In the Act of 16 September 1982 on employees of public institutions (Official Journal of Laws of 2001 No 86 item 953 with further amendments) the following amendments are made:

- 1) in section 1, subsection 1 point 10 is repealed;
- 2) in section 36 in subsection 5 point 1 reads as follows:  
"1) Speaker of Parliament – with regard to officials of the Parliament's Secretariat, National Election Office, Office of the General Inspector of Personal Data Protection as well as the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation,";
- 3) in section 48:
  - a) in subsection 1a the first sentence reads as follows:  
"The provisions of section 2 point 1, section 7 subsection 6 and section 30 subsection 1 shall not apply to employees of institutions referred to in section 1 subsection 1, points 1, 2, 3b, 6-7a, 9 and 13.",
  - b) subsections 2 and 3 read as follows:  
"2. Powers resulting from section 31 subsection 3 shall be given respectively to the authority referred to in subsection 1 and to the Speaker of Parliament with regard to employees of the Parliament's Secretariat, National Election Office, and Office of the General Inspector of

Personal Data Protection as well as to the Speaker of Senate with regard to employees of the Senate's Secretariat and managers of institutions referred to in section 1 subsection 1 points 3b and 6-7a as regards employees of these institutions.

3. Powers of ministers provided for in the Act shall be given respectively to managers of institutions listed in subsection 1 and in section 1 subsection 1 points 1, 2, 3b, 6-7a, 9 and 13."

#### **Section 97**

In the Act of 4 March 1994 on company's social benefit fund (Official Journal of Laws of 1996 No 70, item 335 with further amendments) in section 12a subsection 2 reads as follows:

"2. In matters referred to in subsection 1 judgements shall be made on the basis of a motion submitted by a competent officer of National Labour Inspectorate in the mode specified by provisions of the Code of proceedings on minor offence cases."

#### **Section 98**

In the Act of 6 June 1997 – The Penal Code (Official Journal of Laws No 88, item 553 with further amendments) the following amendments are made:

1) in article 46 § 1 reads as follows:

"§ 1. In case of a conviction for: a crime of causing death, serious health damage, impairment of the functionality of a body part or health disorder, a crime against communication safety, a crime against the environment, property or economic turnover or a crime against the rights of persons performing paid work, the court in its judgement, shall, on the motion of the wronged person or any other person, oblige the convict to compensate for the damage, completely or in part; civil law regulations on limitation of claims and the possibility to adjudge a pension shall not apply.";

2) In article 218 § 3 is added in the following wording:

"§ 3. A person referred to in § 1, who is obliged by a judgement of the court to pay remuneration for work or any other benefit resulting from an employment relationship and who fails to fulfil this obligation – is subject to a fine, limitation of freedom or imprisonment up to 3 years.";

3) in article 225 § 3 is added in the following wording:

"§ 3. The same penalty shall be adjudged with regard to anyone who foils or obstructs the conduct of official proceedings by a person empowered to carry out inspection activities referred to in chapter 1e of the Act of 24 July 1999 on Customs Service (Official Journal of Laws of 2004 No 156, item 164<sup>1</sup> and No 273, item 2703 and of 2005 No 167, item 1399) or who foils or obstructs the conduct of official proceedings by a person designated to assist them."

#### **Section 99**

In the Act of 6 June 1997 – Code of Penal Procedure (Official Journal of Laws No 89, item 555 with further amendments) in article 49 after § 3, a new paragraph 3a is added in the following wording:

"§ 3a. In matters relating to crimes against persons providing paid work, which are referred to in articles 218-221 and in article 225 § 2 of the Penal Code, National Labour Inspectorate's officers may exercise the rights of the wronged person, provided that they have identified a crime or submitted a motion for instituting legal proceedings while acting within the scope of their competence."

#### **Section 100**

In the Act of 24 July 1999 on Customs Service (Official Journal of Laws of 2004 No 156, item 1641 and No 273, item 2703 and of 2005 No 167, item 1399) the following amendments are made:

1) in section 1 in subsection 2 point 5a reads as follows:

"5a) inspection of legality of work performed by foreigners, economic activity conducted by foreigners, entrusting the performance of work and any other paid work to foreigners";

2) after section 6zn a new chapter 1e is added in the following wording:

"Chapter 1e. Inspection of legality of work performed by foreigners, economic activity conducted by foreigners, entrusting the performance of work and any other paid work to foreigners.

Section 6zo. 1. Inspection referred to in section 1 subsection 2 point 5a aims at determining the factual state of affairs with regard to observance of regulations on legality of work performed by foreigners, economic activity conducted by foreigners, entrusting the performance of work and any other paid work to foreigners.

2. The inspection shall be conducted by Customs officers serving in organizational units of Customs Service, on the basis of an authorization issued by a competent manager of the Customs Chamber.

3. Inspection may cover employers, entrepreneurs not engaging an employee and other institutions and natural persons.

4. The inspecting persons are empowered to conduct an inspection without prior notice at any time of day and night. The inspecting persons are obliged to present their official identity cards and the authorization.

5. In case of raising a suspicion that regulations of the Act in the scope referred to in subsection 1 are not complied with and that factual circumstances justify undertaking inspection without delay, the inspection is conducted on the basis of official identity cards. In case inspected entity is the entrepreneur, he is handed an authorization within the period of up to 7 days from the day on which inspection activities were undertaken. In case of inspection conducted on the basis of official identity cards, the inspected entity is obliged to indicate a mailing address. In case of non-existence of such an address or in case an indicted address proved to be wrong, the authorization submitted to the inspection documentation shall be deemed delivered.

Section 6zp. 1. In order to conduct an inspection, customs officers may undertake preliminary proceedings aimed at establishing the name of the entity being subject to inspection, the duration of the inspection, and the fact of conducting an inspection in the entity being subject to inspection by another inspection authority. While conducting preliminary proceedings Customs officers are obliged to show the inspected entity an official identity card.

2. Having finished preliminary proceedings Customs officers conduct the inspection referred to in section 6zo subsection 1 or in case of establishing that another inspection authority is conducting an inspection, they refrain from the inspection. In this case the inspection may be conducted in the period decided upon with the entity being subject to inspection.

Section 6zr.1. In the course of an inspection the inspecting persons are entitled to:

- 1) free movement on premises of the inspected entity without an obligation to obtain a pass or undergo a body search;
- 2) examine documents covered by the scope of the inspection and make copies thereof as necessary;
- 3) interrogate persons suspected of infringing upon regulations referred to in section 6zo;
- 4) interrogate witnesses;
- 5) check the identity of persons employed or performing other paid activities, as well as other persons in order to determine the nature of their presence on premises of the inspected entity at the time of inspection;
- 6) record inspection activities with sound or image recording equipment;
- 7) resort to the assistance of surveyors and experts;
- 8) conduct inspection of workstations.

2. An inspected person, a person authorised to represent the inspected person or to manage his affairs, an employee or a person collaborating with the inspected person are obliged to make it possible for activities referred to in subsection 1 to be conducted.

3. An inspected person is obliged, by the set deadline, to provide any necessary explanations concerning the subject of inspection, provide the inspecting person with requested documents, make it possible to make copies thereof, and ensure that the inspecting persons have appropriate conditions for work, including as far as possible, the provision of a separate room and place for storing documents.

4. Persons authorized to represent the inspected person or to manage his affairs, employees, persons collaborating with the inspected person and other persons present on premises of the inspected entity during inspection are obliged to provide explanations in the scope resulting from activities or tasks they perform.

2. The inspected individual, the person authorised to represent the inspected individual or conduct his affairs, the employee and the person collaborating with the inspected individual are obliged to make it possible to perform activities mentioned in subsection 1.

3. The inspected individual is obliged, by a specified deadline, to provide all explanations concerning the subject of the inspection, furnish the inspecting person with the demanded documents, enable that person to make their copies and secure proper conditions of work to the inspecting person, including also provision, as far as it is possible, of a separate room and place for keeping documents.

4. The persons authorised to represent the inspected individual or conduct his affairs, employees, persons collaborating with the inspected individual and other persons present on the premises of the inspected entity during the inspection are obliged to give explanations related to the subject of the inspection, in the scope resulting from carried out activities or tasks.

Section 6zs. 1. Findings from the inspection are described in the inspection report, which in particular shall include:

1) name and surname of the person managing the inspected entity, name and address of the entity;

2) name and surname of the inspecting individual and the number and date of authorisation for conducting the inspection;

3) the dates of commencing and finishing the inspection;

4) the scope of inspection and the period covered by inspection;

5) facts determined during the inspection, in particular concerning identified irregularities;

6) indication of persons responsible for the identified irregularities;

7) information about making copies, excerpts and Xerox copies of documents and the fact of documenting inspection activities with the use of audio-visual equipment;

8) specification of attachments to the inspection report;

9) the date and place of signing the report.

2. The inspection report is signed by the inspecting individual and the person who manages the inspected entity, and in case of that person's absence – by the person authorised by him.

3. If, before signing the report, the person who manages the inspected entity or the person authorised by him, submits in writing, by the deadline of 7 days from the day of its receipt, justified reservations to the findings comprised in the report, the inspecting individual analyses them, examines presented evidence, formulates his opinion on the said reservations and in justified cases supplements the report.

4. If the person who manages the inspected entity or the person authorised by him refuses to sign the report, the inspecting individual complements the report with a relevant note on the causes of refusal to sign the report or on the lack of specification of said causes.

5. The report is drawn up in two copies – one for the person who manages the inspected entity and one for the inspecting individual.

6. No corrections, cross-outs or additions shall be made in the inspection report unless they are described at the end of the report, except for corrections of obvious spelling and calculation mistakes, which are signed and dated by the inspecting individual.

7. If no irregularities are identified as a result of conducted inspection, the inspecting individual draws up a note on the inspection, containing data mentioned in subsection 1 points 1-5, 8 and 9 respectively. Provisions of subsections 2 and 4-6 are applied accordingly.

Section 6zt. 1. The Customs Service, in the scope of carrying out inspections, collaborates with public administration bodies, in particular with Border Guards, the Police, National Labour Inspectorate, Social Insurance Institution, fiscal inspection offices as well as trade unions and employers' organisations.

2. Officers of the Police and Border Guards, in case of a justified need, and in order to provide assistance to inspecting individuals, are obliged, on the inspecting individual's motion, to provide relevant assistance.

3. The Minister competent for public finances shall specify, by means of a regulation, organisation and mode of conducting inspections mentioned in section 1, subsection 2, point 5a, having regard to the necessity to ensure that inspections are carried out smoothly and that conducted inspection activities are properly documented.

Section 6zu. In the scope not covered by the provisions of this chapter, provisions of sec. 6j, 6k, 6p subsection 1, 2 and 4, sec. 6za, 6zb subsection 1-4 and sec. 6zc shall be applied accordingly, and in the scope not covered by these provisions, the provisions of the Administrative Proceedings Code shall be applied.

### **Section 101**

The Act of 24 August 2001 – the Code of proceedings in minor offence cases (Journal of Laws No. 106, item 1148 with further amendments) is amended as follows:

1) in section 17 § 2 reads as follows:

“§ 2. In cases concerning minor offences against employee rights specified in the Labour Code, in cases concerning minor offences specified in sections 119-123 of the Act of 20 April 2004 on the promotion of employment and labour market institutions, and in cases concerning other minor offences connected with performing paid work, if the Act specifies so, a labour inspector is a public prosecutor.”;

2) in section 96:

a) § 1 reads as follows:

“§ 1. In punishment ticket proceedings, a fine in the amount of up to PLN 500 may be imposed, and in the case mentioned in section 9 § 1 of the Code of minor offences – of up to PLN 1000”,

b) after § 1, § 1a and § 1b are added, which read as follows:

“§ 1a. In punishment ticket proceedings, in cases when a competent officer of National Labour Inspectorate is a public prosecutor, a fine in the amount of up to PLN 2000 may be imposed.

§ 1b. When a person penalised at least two times for minor offences against employee rights, specified in the Labour Code, commits such an offence during the period of two years since the day on which the last penalty was imposed, a competent officer of National Labour Inspectorate may, in punishment ticket proceedings, impose a fine in the amount of up to PLN 5000”.

### **Section 102**

In the Act of 9 July 2003 on the employment of temporary employees (Journal of Laws No. 166, item 1608 and of 2004 No. 96, item 959), in section 9:

1) after subsection 2, there are subsections 2a and 2b inserted which read as follows:

“2a. An employer-user supplies a temporary employee with working clothing and footwear and personal protective equipment, secures prophylactic beverages and meals, arranges training in occupational safety and health, determines the circumstances and causes of accidents at work, carries out occupational risk assessment and informs of such risk.

2b. The Labour Code provisions shall be applied accordingly with regard to the method and dates of conducting OSH training.”;

2) in subsection 3, point 2 reads as follows:

“2) the scope within which an employer-user takes over the duties of an employer related to work safety and health which are different from the ones specified in subsection 2a;”.

### **Section 103**

In the Act of 20 April 2004 on the promotion of employment and labour market institutions (Journal of Laws No. 99, item 1001 with further amendments), the following amendments are made:

1) in section 10 subsection 2, point 1 was repealed;

2) in section 88 subsection 12, point 5 reads as follows:

“5) a foreigner who, on behalf of the employer being an organisational unit, carries out activities in matters related to labour law and breaches the said law; a repeal of the promise or permit for work in the case of breach of labour law provisions takes place on the motion by a competent officer of National Labour Inspectorate.”;

3) sections 116-118 are repealed;

4) section 124 is repealed;

5) section 125 reads as follows:

“Sec. 125 Passing judgments in cases with regard to deeds mentioned in sections 119-123 takes place in the mode specified by the provisions of the Act of 24 August 2001 – the Code of proceedings in minor offence cases (Journal of Laws No. 106, item 1148 and of 2003 No. 109, item 1031 and No. 213, item 2081).”.

## **Chapter 8 Temporary and final provisions**

### **Section 104**

National Labour Inspectorate's employees retain employee rights and the right to perform or supervise inspection activities, when this right results from legal regulations on the basis of which their employment relationship was concluded or on the basis of which they had the right to perform or supervise inspection activities, before the day of coming into force of this Act.

### **Section 105**

National Labour Inspectorate operating on the basis of this Act takes over the powers and duties of National Labour Inspectorate which operated on the basis of the act mentioned in section 115.

### **Section 106**

The Centre operating on the basis of this Act takes over the powers and duties of National Labour Inspectorate's Training Centre which operated on the basis of the act mentioned in section 115.

### **Section 107**

1. On the day when this Act comes into force, employees of provincial offices who carry out inspection of legality of employment, on the basis of the act mentioned in section 103, and who have higher education, will become employees of National Labour Inspectorate.

2. Their current employer is obliged, within 7 days since the promulgation of this Act, to inform the employees specified in subsection 1, in writing, of the changes which are to take place concerning their employment relationships. Provision of sec. 23<sup>1</sup> § 4 of the Labour Code shall be applied accordingly.

3. The educational requirements resulting from section 39, point 4, shall not be applied to employees mentioned in subsection 1.

4. Employees mentioned in subsection 1, before being allowed to perform inspection activities, are obliged to take part, within two years since the coming into force of this Act, in the training on issues which fall within the scope of National Labour Inspectorate's activity, which shall be finalised with a state exam specified in section 39 point 4. Costs of the training shall be covered by Chief Labour Inspector.

5. An employment relationship with an employee mentioned in subsection 1 expires when such an employee does not fulfil the condition stipulated in subsection 4.

### **Section 108**

1. The current employer shall provide lists with names of employees mentioned in section 107 subsection 1 to Chief Labour Inspector, by the deadline of 1 June 2007.

2. The Minister competent for public administration issues shall specify, by means of a regulation, the way and mode of conduct with regard to employees mentioned in section 107 subsection 1, taking account of the necessity to ensure efficient and effective performance of entrusted tasks.

### **Section 109**

1. In the ongoing proceedings in cases related to minor offences, specified in sections 119-123 of the act mentioned in section 103, in which an inspector of a relevant provincial office was a public prosecutor, on the day when the Act comes into force a competent labour inspector will become a public prosecutor.

2 Unfinished administrative proceedings shall be still continued before competent District Labour Inspectors.

3. The Minister competent for public administration issues shall specify, by means of a regulation, the way and mode of taking over ongoing court and administrative proceedings, in particular the way of transferring documents concerning said proceedings, taking account of the necessity to ensure efficient and effective continuation of taken over proceedings by a competent District Labour Inspector.

#### **Section 110**

The term of office of Labour Protection Council, nominated in the mode specified in the act mentioned in section 115, lasts until its end date after the day on which this Act comes into force.

#### **Section 111**

Occupational Health and Safety Surveyors who were granted powers by Chief Labour Inspector in the mode specified in the act mentioned in section 115, retain the said powers after the day on which this Act comes into force.

#### **Section 112**

Current provisions shall be applied with regard to enforcement proceedings instigated, on the basis of the act mentioned in section 94, before the day on which this Act comes into force.

#### **Section 113**

Current provisions shall be applied with regard to disciplinary proceedings instigated against National Labour Inspectorates' employees before the day on which this Act comes into force; yet, new provisions should be applied if they are more favourable to the offender.

#### **Section 114**

Current executive regulations issued on the basis of section 5 subsection 1 points 1 and 2, section 8 subsection 4, section 8a subsection 5, section 12 and section 21f of the act mentioned in section 115, remain in force until the coming into force of executive regulations which shall be issued on the basis of section 6 subsection 1 points 1 and 2, section 9 subsection 9, section 16 and section 32 of this Act, yet no longer than for the period of 6 months since the coming into force of this Act.

#### **Section 115**

The Act of 6 March 1981 on National Labour Inspectorate (Official Journal of Laws of 2001: No. 124, item 1362, No. 128, item 1405 and No. 154, item 1800, of 2002: No. 166, item 1360, of 2003: No. 170, item 1652 and No. 213, item 2081, of 2004: No. 173, item 1808, of 2005: No. 64, item 564, No. 110, item 926 and No. 167, item 1399) loses its validity.

#### **Section 116**

The Act comes into force on 1 July 2007, with the exception of section 108, which comes into force on 1 June 2007.

Speaker of Parliament

/-/ Marek Jurek