

Journal of Acts of 2008 No 223 pos. 1458

ACT
of 21st November 2008
on local government employees

Chapter 1
General provisions

Art. 1. In order to ensure professional, reliable and impartial performance of public tasks by local governments, labour law provisions defining the legal status of local government employees shall be established.

Art. 2. The provisions of this Act shall apply to local government employees employed in

- 1) Marshal's Offices (*Urząd Marszałkowski*) and voivodship self-governmental organisational units;
- 2) poviats (*Starostwo powiatowe*) and poviats organisational units;
- 3) Communes (*gmina*) offices, commune auxiliary units, commune budgetary units and local government budgetary establishments;
- 4) offices (their equivalents) of unions of local government units and local government budgetary establishments established by these unions;
- 5) offices (their equivalents) of administrative units of local government units.

Art. 3. The provisions of the Act shall not apply to employees employed in the units referred to in Article 2, whose legal status is determined by separate regulations.

Art. 4. 1. Local government employees are employed on the basis of:

- 1) election:
 - a) in the Marshall's Office: the Marshall of the Voivodeship (*Marszałek województwa*), the Deputy Marshall and other members of the Voivodeship Board - if the voivodeship's statute so provides,
 - b) in the Poviats: the Starosta (head of poviats), the Deputy Starosta and other members of the Poviats Board - if the Poviats's statute so provides,
 - c) in the Communes office: the Communes Head (*wójt*) (Mayor (*burmistrz*), City Mayor (*prezydent miasta*),
 - d) in unions of local government units: the President of the Union Board and other members of the Board - if the Union's statute so provides,
 - e) in the Office of the capital city of Warsaw: a Mayor of the capital city of Warsaw District, a Deputy Mayor of the capital city of Warsaw District and other members of the Board of the capital city of Warsaw District.
- 2) appointments - deputy Communes Head (Mayor, City Mayor), commune treasurer, Poviats treasurer, voivodeship treasurer;
- 3) employment contracts - other local government employees.

2. Local government employees are employed on the following positions:

- 1) official positions, including managerial official positions;
- 2) (repealed)
- 3) support and service positions.

Art. 5. 1. A position of a commune secretary, a poviats secretary and a voivodeship secretary, hereinafter referred to as "secretary" is appointed in the Communes Office, Poviats Starosty and Marshal's Office respectively.

1a. The recruitment of candidates for the vacant post of secretary shall be carried out no later than within 3 months after the post becomes vacant.

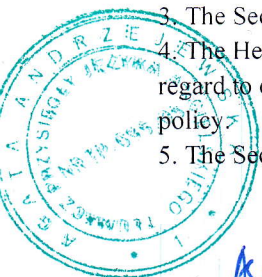
1b. The post of the Secretary may not be filled by way of an assignment of duties. The provisions of Article 21 shall not apply.

2. The post of a Secretary may be occupied by a person with at least four year-seniority in an official position in the entities referred to in Article 2, including at least two-year seniority in a managerial official position in those entities, or a person with at least four-year seniority in an official position in the entities referred to in Article 2 and at least two-year seniority in a managerial official position in other entities of the public finance sector.

3. The Secretary shall report directly to the Head of the Office.

4. The Head of the Office may authorise the Secretary to perform tasks on his/her behalf, in particular with regard to ensuring proper organisation of work of the Office and implementing human resources management policy.

5. The Secretary shall not be entitled to form political parties or be a member thereof.



Art. 6. 1. A local government employee may be a person who

- 1) is a Polish citizen, subject to Art. 11 clause 2 and 3;
- 2) has full capacity to perform legal actions and is a holder of full public rights;
- 3) possesses professional qualifications required to perform work on a given position.

2. The local government employee employed by election or appointment may be a person who meets the requirements set forth in section 1 and has not been sentenced by a final court judgement for an intentional offence prosecuted by public indictment or an intentional fiscal offence.

3. A local government employee employed under a contract of employment on an official position may be a person who meets the requirements set forth in clause 1 and additionally

- 1) has at least secondary education or vocational secondary education;
- 2) has not been sentenced by a final court judgement for an intentional offence prosecuted by public indictment or an intentional fiscal offence;
- 3) enjoys good reputation.

4. A local government employee employed under a contract of employment on a managerial official position may be a person who meets the requirements set forth in clause 1 and clause 3 pos. 2 and 3 and additionally:

- 1) has at least three-year work experience or has run business activity, whose nature was consistent with the requirements for a given position, for at least three years;
- 2) has higher education within the meaning of the provisions on higher education and science.

Art. 6a. In the event of a conviction by a final court judgement for an intentional offence prosecuted by public indictment or for an intentional fiscal offence of the deputy commune head (Mayor, City Mayor), starosta, deputy starosta, member of the powiat board, marshal of the voivodeship, deputy marshal of the voivodeship, member of the voivodeship board, commune treasurer, powiat treasurer, voivodeship treasurer, commune secretary, powiat secretary, voivodeship secretary, chairman of the board of a union of local government units, member of the board of a union of local government units, mayor of a district of the Capital City of Warsaw, deputy mayor of a district of the Capital City of Warsaw, member of the board of a district of the Capital City of Warsaw or a self-government employee employed on the basis of an employment contract for an official post, a competent body of the local government unit shall issue a relevant contract of employment. A local government employee employed on the basis of an employment contract on an official post shall be dismissed or employment shall be terminated by a competent authority of a local government unit or a union of local government units or an entity performing activities under the labour law with respect to a local government employee upon notice of termination of employment not later than one month from the date on which it obtained information about the fact of a legally valid conviction.

Art. 7. Actions in matters relating to labour law shall be performed for the units referred to in Art. 2, subject to Art. 8 clause 2, Art. 9 clause 2 and 3 and Art. 10 clause 2 and 3, by:

- 1) the Commune Head (Mayor, City Mayor) - with respect to the deputy commune head (Mayor, City Mayor), the secretary of the commune, the treasurer of the commune and the heads of the commune organisational units;
- 2) the chairman of the assembly of the union of local government units - with respect to the members of the union board;
- 3) Commune Head (Mayor, City Mayor), starosta, marshal of voivodship in the office of a local government unit - in relation to other employees of the office and the heads of the local government organisational units other than those referred to in pts. 1 and 2;
- 4) head of the organisational unit - for units other than those referred to in pts. 1 to 3.

Art. 8. 1. The commune office is the employer of the Commune Head.

2. Activities under labour law in relation to a commune head (Mayor, City Mayor) as regards the establishment and termination of employment, shall be performed by the chairman of the commune council, and the other activities - by a deputy or the commune secretary appointed by the commune head (Mayor, City Mayor), however the remuneration of the commune head shall be determined by the commune council by way of a resolution.

Art. 9. 1. The employer of a starosta, deputy starosta and members of the Powiat board is the Powiat Starosta.

2. Activities under labor law in relation to the starosta as regards the establishment and termination of employment, are performed by the chairman of the Powiat council, and the other actions – by a deputy appointed by the starosta or by a Powiat secretary, however the remuneration of the starosta shall be determined by the Powiat council by way of a resolution.



3. Actions in matters related to labour law with respect to the other members of the Poviast board shall be performed by the Poviast starosta.

Art.10. 1. The employer of a Marshall, Deputy Marshall and members of the Voivodeship Board is the Marshal's Office.

2. Activities under labour law in relation to the Marshal of Voivodeship as regards establishing and terminating employment are performed by the chairman of the Regional Assembly, while other activities are performed by a deputy appointed by the Marshal or the Voivodeship Secretary, however the remuneration of the Marshal of Voivodeship shall be determined by the Regional Assembly by way of a resolution.

3. Actions in matters related to labour law with respect to the other members of the voivodship board shall be performed by the Marshal of Voivodeship.

Chapter 2

Establishment and modification of the employment relationship with a local government employee under an employment contract

Art. 11. 1. Recruitment of candidates for vacant official positions, including managerial official positions, is open and competitive.

2. The head of a unit referred to in art. 2, while disseminating information on vacant official positions, including managerial official positions, indicates the positions which, apart from Polish citizens, may be applied for by citizens of the European Union and citizens of other countries who, pursuant to international agreements or provisions of Community law, are entitled to take up employment in the territory of the Republic of Poland.

3. A person who is not a Polish citizen may be employed on a position on which the work performed does not involve direct or indirect participation in the exercise of public authority or functions designed to protect the general interests of the state, if the person has knowledge of the Polish language certified with a document specified in the provisions on the civil service.

Art. 12. 1 A vacant official position, including a vacant managerial official position, is a position to which a local government employee employed on an official position, including a managerial official position, with qualifications required for a given position, has not been transferred pursuant to the provisions of the law or by way of agreement, or for which a recruitment process has not been conducted or on which an employee has not been employed despite having conducted a recruitment process.

2. Employment of a person as a substitute in connection with justified absence of a local government employee does not require recruitment.

Art. 13. 1. An announcement of a vacant official position, including a managerial official position, and of the recruitment of candidates for that position shall be published in the Public Information Bulletin referred to in the Act of 6 September 2001 on Access to Public Information (Journal of Acts of 2018, pos. 1330 and 1669), hereinafter referred to as the "Bulletin", and on a notice board in the unit in which the recruitment is conducted.

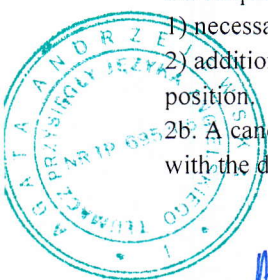
2. The recruitment announcement should include:

- 1) the name and address of the unit;
- 2) designation of the position;
- 3) specification of requirements connected with the position, in accordance with the description of a given position, indicating which of them are necessary and which are additional;
- 4) indication of the scope of tasks performed on the position;
- 4a) information on work conditions on a given position;
- 4b) information whether in the month preceding the date of publication of the announcement, the employment rate of disabled persons in the unit, within the meaning of the provisions on professional and social rehabilitation and employment of disabled persons, is at least 6%;
- 5) indication of the required documents;
- 6) specification of the deadline and place for submitting documents.

2a. Requirements referred to in clause 2 pt. 3 shall be defined as follows:

- 1) necessary requirements are requirements indispensable to take up employment on a given position;
- 2) additional requirements are the remaining requirements allowing for optimal performance of tasks on a given position.

2b. A candidate who intends to use the entitlement referred to in Art. 13a clause 2 is obliged to submit, along with the documents, a copy of a document confirming disability.



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3. The deadline for submitting documents, determined in the recruitment announcement, cannot be shorter than 10 days from the date of publishing the announcement in the Bulletin.

4. Information on the candidates who applied for recruitment constitutes public information within the scope of the requirements related to the position specified in the recruitment announcement.

Art. 13a. 1. In the course of the recruitment process, a committee selects no more than five best candidates, who meet the necessary requirements and the additional requirements to the greatest extent possible, who are presented to the head of the unit in order to employ one selected candidate.

2. If the employment rate of disabled persons in the unit, within the meaning of the provisions on professional and social rehabilitation and employment of disabled persons, in the month preceding the date of publishing the recruitment announcement is lower than 6%, a disabled person is entitled to priority in employment on official positions, excluding managerial official positions, provided that they are among the persons referred to in clause 1.

Art. 14. 1. Minutes are drawn up from the conducted recruitment process.

2. The minutes include:

1) Indication of the position for which the recruitment was conducted, the number of candidates and the forenames, surnames and places of residence within the meaning of the provisions of the Civil Code of no more than five best candidates, indicating candidates with disabilities if the provisions of Article 13a clause 2 apply to the recruitment, who are presented to the head of the unit;

2) the number of applications submitted for the position, including the number of applications meeting the formal requirements;

3) information on the applied recruitment methods and techniques;

4) statement of reasons for the choice made;

5) make-up of the committee conducting the recruitment.

Art. 15. 1. Immediately after the recruitment has been conducted, information on the result of recruitment process is made public by placing it on the notice board in the unit in which the recruitment has been conducted and publishing it in the Bulletin for at least 3 months.

2. The information referred to in clause 1 shall include:

1) the name and address of the unit;

2) designation of the position;

3) forename and surname of the selected candidate and his/her place of residence within the meaning of the provisions of the Civil Code;

4) statement of reasons for the decision or justification of not resolving the recruitment for the position.

3. If within 3 months from the date of establishing an employment relationship with a person selected through the recruitment process it is necessary to fill the same position again, it is possible to employ another person for the same position from among the candidates referred to in Article 13a, clause 1. The provisions of Article 13a, clause 2 shall apply accordingly.

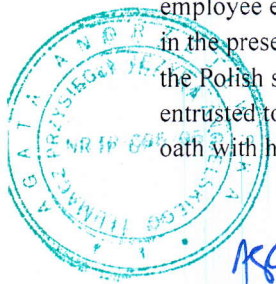
Art. 16. 1. The employment relationship of a local government employee employed under an employment contract is established for an indefinite period of time or for a fixed period of time. If it is necessary to replace an employee during his/her justified absence from work, the employer may employ another employee for that purpose under an employment contract for a fixed period of time, covering the period of such absence.

2. In the case of persons taking up employment on an official position for the first time, including a managerial official position, in the units referred to in Article 2, the employment contract is concluded for a fixed period of time, not exceeding 6 months.

3. A person taking up employment for the first time, referred to in clause 2, is a person who has not previously been employed in the units referred to in Article 2 for an indefinite period of time or for a fixed period of time longer than 6 months, and has not completed preparatory service concluded with a positive result of an examination.

Art. 17. (repealed)

Art. 18. 1. Before starting to perform their official duties, subject to Art. 19 clause 9, a local government employee employed on an official position, including a managerial official position, shall take the following oath in the presence of the head of the unit or the secretary: "I solemnly swear that in the position I hold I will serve the Polish state and the local government community, observe the legal order and diligently perform the tasks entrusted to me". The words "So help me God" may be added to the oath. The Employee confirms taking the oath with his/her signature.



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2. Refusal to take the oath referred to in clause 1 results in termination of the employment relationship.

Art. 19. 1. During the term of employment contract concluded for a fixed period of time, the employee referred to in Art. 16 clause 2 undergoes preparatory service, subject to the provisions of clause 5.

2. A decision concerning the referral to preparatory service and its scope shall be taken by the head of the unit in which the employee is employed, taking into consideration the level of preparation of the employee to perform duties resulting from the job description and on the basis of an opinion of the person in charge of the organisational unit in which the employee is employed.

3. The aim of preparatory service is to prepare the employee theoretically and practically to properly perform his/her official duties.

4. Preparatory service takes no longer than 3 months and ends with an examination.

5. At a justified request of the head of the organisational unit in which the employee is employed, the head of the unit may exempt an employee from the obligation to undergo preparatory service if his/her knowledge or skills enable him/her to perform his/her duties properly.

6. A positive result of the examination completing the preparatory service is a condition for further employment of the employee.

7. The exemption referred to in clause 5 does not exclude the application of clause 6.

8. The Head of the unit referred to in Article 2 shall define by way of a regulation a detailed manner of conducting preparatory service and organising an examination on service completion.

9. After obtaining a positive result in the examination referred to in clause 6, before concluding a new employment contract, the employee takes an oath.

Art. 20. 1. A local government employee who shows initiative at work and performs his/her duties diligently may be transferred to a higher position (internal promotion).

2. Internal promotion may be made only within the same group of positions referred to in Article 4 clause 2 pt. 1 and 3.

Art. 21. If the needs of the unit so require, a local government employee may be entrusted, for a period of up to 3 months in a calendar year, with the performance of work other than that specified in the employment contract, consistent with his/her qualifications. During that period, the employee is entitled to remuneration adequate to the work performed, but not lower than the employee's previous remuneration.

Art. 22. 1. A local government employee employed on an official position, including a managerial official position, may be transferred at his/her request or upon his/her consent to work in another unit referred to in Art. 2, in the same or another locality, at any time, if it does not infringe an important interest of the unit which hitherto employed the local government employee and of it is justified by important needs of the acquiring unit.

2. The transfer is made by way of agreement between the employers.

3. In the case of transfer of a local government employee employed on an official position, including a managerial official position, to another unit, his/her personal files together with other documentation on matters relating to the employment relationship shall be transferred to the unit in which the employee is to be employed.

Art. 23. 1. In the event of reorganisation of a unit, a local government employee employed in an official position, including a managerial official position, may be transferred to another position corresponding to his/her qualifications if due to liquidation of the position he/she occupies it is not possible to continue his/her employment on that position.

2. The employee referred to in clause 1 retains the right to his/her former remuneration if it is higher than the remuneration for the new position for a period of 6 months following the month in which the employee was transferred to the new position.

Chapter 3

Responsibilities of a local government employee

Art. 24. 1. Basic responsibilities of a local government employee include taking care of the performance of public tasks and public funds, taking into consideration public interest and individual interests of citizens.

2. Responsibilities of a local government employee include in particular

- 1) observing the Constitution of the Republic of Poland and other provisions of law;
- 2) performing tasks diligently, efficiently and impartially;
- 3) providing information to bodies, institutions and natural persons and providing access to documents held by the unit in which the employee is employed, unless prohibited by law;
- 4) nondisclosure protected by law;



- 5) being polite and kind in contacts with citizens, superiors, subordinates and co-workers;
- 6) behaving with dignity in and outside the workplace;
- 7) constantly improving professional skills and qualifications.

Art. 25. 1. Responsibilities of a local government employee include conscientious and diligent performance of his/her superior's instructions.

2. If a local government employee is certain that an instruction is unlawful or has the features of a mistake, he/she is obliged to inform his/her immediate superior thereof in writing. If the instruction is confirmed in writing, the employee is obliged to perform it, at the same time notifying the head of the unit where he/she is employed.

3. A local government employee shall not perform an instruction if he/she is certain that it would lead to committing a crime, a misdemeanour or would threaten irreparable losses, of which he/she shall immediately inform the head of the unit where he/she is employed.

Art. 26. Spouses and persons related by blood up to the second degree inclusive or by affinity up to the first degree inclusive as well as by adoption, custody or guardianship may not be employed in the units referred to in Art. 2 if a relationship of direct professional subordination would arise between those persons.

Art. 27. 1. A local government employee employed on an official position, including a managerial official position, is subject to periodical performance review, hereinafter referred to as "performance review".

2. A performance review shall be performed in writing by a direct superior of a local government employee at least once every 2 years and at most once every 6 months.

3. A performance review is based on how a local government employee performs his/her duties resulting from the scope of activities within his/her position and responsibilities set forth in Art. 24 and Art. 25 clause 1.

4. The immediate superior immediately delivers the performance review to a local government employee and the head of the unit in which the employee is employed.

5. A local government employee has the right to appeal against the appraisal to the head of the unit in which the employee is employed within 7 days of the date of its delivery.

6. The appeal shall be considered within 14 days of the date of submission.

7. In the case of admitting the appeal, the appraisal is changed or the performance review is carried out for the second time.

8. In the case of a negative appraisal of a local government employee, his/her performance review is repeated no sooner than after the lapse of 3 months from the date of completing the previous performance review.

9. If the appraisal referred to in clause 8 is again negative, the employment contract is terminated in compliance with the notice periods.

Art. 28. The head of a unit referred to in Art. 2 shall determine by way of an ordinance the manner of carrying out performance reviews, the periods for which the appraisal is made, the criteria on the basis of which the appraisal is made and the scope of appraisals, taking into consideration the need for carrying out performance reviews correctly and the specific nature of each unit.

Art. 29. 1. Local government employees participate in various forms of improving knowledge and professional qualifications.

2. Financial plans of units referred to in Art. 2 include financial means for improving knowledge and professional qualifications.

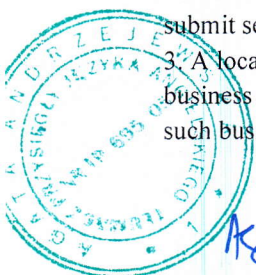
Art. 30. 1. A local government employee employed on an official position, including a managerial official position, cannot perform activities that are in conflict with or related to the activities they perform as part of their official duties, giving rise to a justified suspicion of partiality or self-interest, as well as activities contradictory to their duties under the Act.

2. In the event that a local government employee is found to have violated any of the prohibitions referred to in clause 1, an employment relationship with him/her shall be immediately terminated without notice under Art. 52 § 2 and 3 of the Labour Code or he/she shall be dismissed from his/her post.

Art. 31. 1. A local government employee employed on an official position, including a managerial official position, is obliged to submit a statement on running business activity.

2. If an employee runs business activity, he/she is obliged to specify its nature. The employee is also obliged to submit separate declarations in the event of a change in the nature of the business activity.

3. A local government employee referred to in clause 1 shall be obliged to submit a statement on running business activity to the head of the unit in which he/she is employed within 30 days from the date of taking up such business activity or changing its nature.



4. If an employee fails to submit a statement on running business activity on time, a penalty of an admonition or a reprimand shall be imposed on the local government employee referred to in clause 1. The provisions of Art. 109 § 2 and Art. 110-113 of the Labour Code apply accordingly.

5. Stating untruth or concealing the truth in the statement on running business activity results in liability pursuant to Art. 233 § 1 of the Criminal Code.

Art. 32. 1. Upon the request of a person authorised to act in matters relating to the labour law, a local government employee employed on an official position, including a managerial official position, is obliged to submit a personal property declaration.

2. Review of data contained in the declaration shall be carried out by the head of a unit in which the local government employee is employed.

3. A local government employee referred to in clause 1 shall submit a personal property declaration following a model provided in accordance with the Act of 8 March 1990 on commune self-government (Journal of Acts of 2019, pos. 506) as regards a Commune Head, Deputy Commune Head, Commune Secretary, Commune Treasurer, Head of Commune Organisational Unit, a managing person and a member of a body managing a commune legal persona and a person issuing administrative decisions on behalf of the Commune Head.

Art. 33. (repealed)

Art. 34. 1. The provisions of Art. 27 and Arts. 31 and 32 shall not apply to local government employees referred to in Art. 4 clause 1 pts. 1 and 2.

2. The provisions of Arts. 31 and 32 do not apply to the Secretary.

Art. 35. 1. The employment relationship of a local government employee detained in custody is suspended by virtue of law.

2. During the period of suspension, a local government employee shall receive remuneration in the amount of half of the remuneration to which he/she was entitled until the day of detention.

3. If criminal proceedings are discontinued or a judgement of acquittal is passed, a local government employee shall be paid the remaining part of his/her remuneration; this shall not apply to a conditional discontinuance of criminal proceedings.

Chapter 4

Rights of a local government employee

Art. 36. 1. A local government employee is entitled to remuneration commensurate with the position held and his/her professional qualifications.

2. A local government employee is entitled to basic remuneration, seniority allowance, a service anniversary award, and a one-off severance pay when going on retirement or disability pension due to being unfit for work as well as additional annual pay pursuant to terms and conditions referred to in separate provisions.

3. A Commune Head (Mayor, City Mayor), Starosta or Marshal of Voivodeship are entitled to a special allowance.

4. A local government employee may be granted a functional allowance.

5. A special allowance may be granted to a local government employee due to a temporary increase in his/her official duties or assignment of additional tasks.

6. A local government employee referred to in Art. 4 clause 1, pts. 2 and 3 may be granted an award for special achievements in his/her professional work.

Art. 37. 1. The Council of Ministers shall define, by way of a regulation:

1) a list of positions, taking into consideration the division into managerial, official, auxiliary and service positions;

2) the minimum qualification requirements necessary to perform work on particular positions;

3) the conditions and manner of remunerating local government employees referred to in Art. 4 clause 1 pt. 3, including the minimum level of basic remuneration on particular positions;

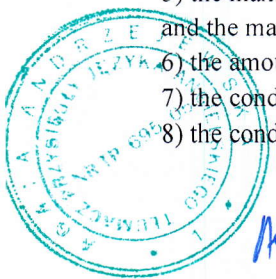
4) the conditions and manner of remunerating local government employees referred to in Art. 4 clause 1 pt. 1, and the maximum level of the functional allowance;

5) the maximum level of basic remuneration of local government employees referred to in Art. 4 clause 1 pt. 2, and the maximum level of the functional allowance;

6) the amount of the special allowance for persons referred to in Art. 36 clause 3;

7) the conditions for granting and paying the seniority allowance;

8) the conditions for establishing the right to a service anniversary award and payment thereof;



Agata Adamczyk

9) the conditions for establishing the right to a one-off severance pay in connection with retirement or going on disability pension due to being unfit for work and payment thereof.

2. When issuing the regulation referred to in clause 1, the Council of Ministers shall take into consideration in particular:

- 1) the type of tasks and the nature of the activities performed on individual positions;
- 2) the need for a local government employee to have professional skills and necessary experience;
- 3) the number of inhabitants of a local government unit.

3. Maximum remuneration of the persons referred to in Art. 4 clause 1 pt. 1 may not exceed in a period of one month seven times the base amount specified in the Budget Act for persons occupying state managerial positions pursuant to the provisions of the Act of 23 December 1999 on the wages in budgetary sector and on the amendment of certain acts (Journal of Acts of 2018, pos. 2288).

Art. 38. 1. The seniority allowance is granted after five years of service and it amounts to 5% of the monthly basic salary. The allowance is increased by 1% for each subsequent year of service until it reaches 20% of the monthly basic salary.

2. The service anniversary award is granted in the following amounts:

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

3. In connection with retirement or going on disability pension due to being unfit for work, a one-off severance pay is due in the following amounts:

- 1) after 10 years of service - two months' remuneration
- 2) after 15 years of service - three months' remuneration;
- 3) after 20 years of service - six months' remuneration.

4. The remuneration referred to in clause 2 and 3 is calculated according to principles applicable when determining a cash equivalent for holiday leave.

5. The periods of work entitling to a seniority allowance, service anniversary award and one-off severance pay in connection with retirement or going on disability pension due to being unfit for work include all previously completed periods of employment and other periods if, pursuant to separate provisions, they are included in the period of work which the employee's rights depends on.

Art. 39. 1. In the remuneration regulations the employer shall define the following for the self-government employees referred to in Art. 4 clause 1 pt. 3:

- 1) qualification requirements for local government employees;
- 2) detailed conditions of remuneration, including the maximum level of basic remuneration.

2. In the remuneration regulations referred to in clause 1, the employer may specify:

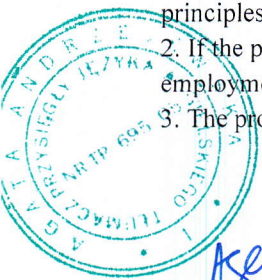
- 1) the conditions for granting, and the conditions and manner of payment of bonuses and awards other than the service anniversary award;
- 2) the conditions and manner of granting the allowances referred to in Art. 36, clauses 4 and 5, and other allowances.

3. The Commune Head (Mayor, City Mayor), starosta or Marshal shall establish, by way of a regulation, maximum monthly remuneration for heads and deputy heads of budgetary units and local government budgetary establishments.

Art. 40. 1. The Commune Head (Mayor, City Mayor), mayor of a district of the Capital City of Warsaw, deputy mayor of a district of the Capital City of Warsaw and other members of the board of the Capital City of Warsaw district, a staroste, a deputy staroste, members of the Poviast board, as well as Marshal, Deputy Marshal and members of the Voivodeship board whose employment relationship was terminated due to the expiry of the term of office are entitled to a severance pay equal to three months' remuneration calculated in accordance with the principles applicable when determining a cash equivalent for holiday leave.

2. If the person referred to in clause 1 is reemployed by election in the same office in the next term under employment contract, he/she is not entitled to a severance pay.

3. The provision of Article 75 of the Labour Code shall not apply to employees referred to in clause 1.



Art. 41. A local government employee who upon his/her employer's order performs official task outside the place where the employer's seat is located or outside his/her permanent place of work shall be entitled to payment in accordance with the rules determined in the provisions on the amount and conditions for determining payments to which employees of the local government budgetary sector are entitled on account of a business trip, issued pursuant to the Labour Code.

Art. 42. 1. The work regulations of a unit referred to in Art. 2 determine the internal order and work schedule in a manner ensuring that citizens can handle their matters at a convenient time.

2. If it is required by the needs of the unit in which a local government employee is employed, he/she shall perform overtime work upon the order of his/her superior, in exceptional cases including at night and on Sundays and holidays.

3. The provisions of clause 2 shall not apply to pregnant women or to local government employees taking care of persons in need of constant care or local government employees taking care of children aged less than eight, unless they consent to it.

4. For overtime work performed at the superior's order a local government employee is entitled, at his/her discretion, either to remuneration or time off of the same length however the time off granted at the employee's request may be granted in the period immediately preceding or following his/her holiday leave.

Art. 43. 1. Provisions of the Labour Code shall apply to matters not regulated by this Act.

2. Disputes resulting from the employment relationship of local government employees are recognised by competent labour courts.

Chapter 4a

Changes in the territorial division of the country

Art. 43a. As of the day of establishing a new local government unit as a result of merger, local government employees of the former offices within local government units shall become local government employees of the office of a new local government unit.

Art. 43b. 1. The employment relationships by election in the existing Commune Offices, Poviats, Starosties or Marshal Offices expire on the date of establishing a new local government unit.

2. Expiry of the employment relationship of a Commune Head (Mayor, City Mayor) is tantamount to the dismissal of his/her deputy or deputies.

Art. 43c. 1. The employment relationship of a secretary and a Commune, Poviats or Voivodeship treasurer expires after the lapse of one month from the date of establishing a new local government unit unless new terms and conditions of work or pay for a further period of time are offered to them within 14 days before the lapse of the said period or, if the terms and conditions are not accepted, within 7 days from the day of offering thereof.

2. The expiry of the employment relationship referred to in clause 1 entails consequences provided for by the Labour Code in the event of termination of the employment relationship by notice.

3. The employer is obliged to notify an employee referred to in clause 1 in writing about the date of expiry of the employment relationship or about the consequences of not accepting new terms and conditions of work or pay, accordingly.

Chapter 5

Amendments to existing legislation

Art. 44 to 52. (omitted)

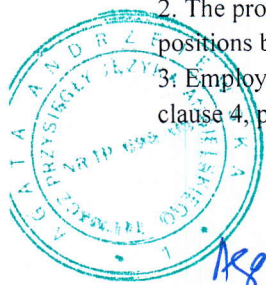
Chapter 6

Transitional provisions

Art. 53. 1. As of the date when the Act comes into force, the previous employment relationships of persons employed on the basis of an appointment, other than the persons referred to in Art. 4 clause 1 pt. 2, are transformed into employment relationships based on an employment contract for an indefinite period of time, unless separate provisions provide for the establishment of employment relationships based on an appointment.

2. The provision referred to in Art. 6 clause 4 pt. 1 does not apply to employees employed on managerial official positions before the date when the Act comes into force.

3. Employees who on the date when the Act comes into force do not meet the requirement referred to in Art. 6, clause 4, pt. 2, may continue to be employed in their existing positions.



4. Secretaries who on the date when the Act comes into force do not meet the requirement referred to in Art. 5 clause 2 may continue to be employed in their existing positions.

Art. 54. 1. The employment relationship of persons employed on the basis of an appointment under terms and conditions set forth in the Act repealed in Art. 60 is transformed as of 1st January 2012 into an employment relationship under an employment contract for an indefinite period of time.

2. The provisions of the Act, subject to Art. 59 clause 2, apply to appointed local government employees.

Art. 55. 1. Until the date referred to in Art. 54 clause 1, employment relationship with an appointed local government employee may be terminated with a three-month notice in the following situations:

- 1) liquidation or reorganisation of a unit referred to in Art. 2, unless it is possible to transfer an employee to another position;
- 2) involuntary loss of a license to perform work on the hitherto position;
- 3) determination by the Social Insurance Institution's certifying physician of permanent inability to work on the hitherto position, unless it is possible to transfer the employee to another position; in order to examine the health condition of an appointed local government employee, he/she may be referred to the Social Insurance Institution ex officio or at the employee's request;

4) attaining the age of 65, if the period of employment enables the employee to acquire the right to old-age pension or to acquire the right to disability pension due to being unfit for work;

5) loss of good repute.

2. If employment was terminated due to a situation referred to in clause 1 pt. 1 or 2, in the period between termination of employment and the commencement of work or business activity, an appointed local government employee shall be entitled to a cash consideration for a period not exceeding 6 months, calculated in accordance with the rules applicable when determining a cash equivalent for holiday leave. The said consideration shall not be granted to an appointed local government employee who has acquired the right to an old-age pension.

3. If sick pay or maternity pay is received in the period referred to in clause 2, the amount of cash consideration shall be reduced accordingly.

4. The period of receiving a cash consideration is included in the periods of service required for acquiring or retaining employee rights. A local government employer pays social security contributions on the cash consideration in accordance with the rules provided for remuneration paid during the employment relationship.

5. Termination of employment relationship with an appointed local government employee without notice due to the employee's fault may take place in the event of:

- 1) committing by the employee during the employment relationship an offence which makes further employment impossible, if the offence is evident or has been confirmed by a final judgement;
- 2) loss of license necessary to perform work on the hitherto position, which is the fault of the appointed local government employee;
- 3) gross dereliction of duty.

6. The employment relationship with an appointed local government employee shall be terminated by virtue of law without notice in the case of loss of Polish citizenship.

7. Termination of the employment relationship with an appointed local government employee without notice due to the employee's fault cannot take place after one month from the date of becoming aware of the circumstances justifying termination of the employment relationship.

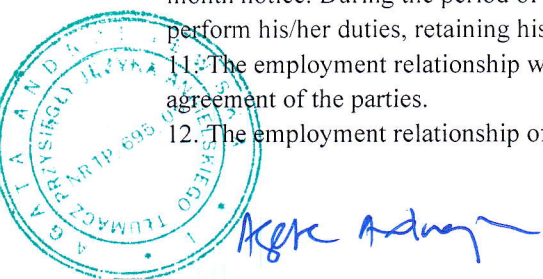
8. Termination of the employment relationship with an appointed local government employee without notice may take place in the event of his/her absence from work due to sickness lasting longer than one year, as well as in the event of justified absence from work due to other reasons - after the lapse of periods provided for in Art. 53 § 1 of the Labour Code.

9. In the event of incapacity to work due to sickness, as referred to in clause 8, an appointed local government employee shall retain the right to cash considerations for a period provided for in the provisions on cash benefits from social insurance in the event of sickness and maternity.

10. An appointed local government employee may terminate the employment relationship by giving a three-month notice. During the period of notice, the appointed local government employee may not be required to perform his/her duties, retaining his/her right to remuneration.

11. The employment relationship with an appointed local government employee may be terminated by mutual agreement of the parties.

12. The employment relationship of an appointed local government employee expires in the event of:



- 1) a final decision on loss of civil rights;
- 2) a final conviction for an intentional offence or an intentional fiscal offence.

Art. 56. Until the expiry of the term of office of the voivodeship self-government during which this Act came into force, the provisions on commune self-government shall apply to the voivodeship secretary within the scope concerning the submission by the commune secretary of declarations on business activity, civil law contracts and personal property declarations.

Art. 57. 1. The hitherto abiding provisions shall apply to the recruitment proceedings initiated under these provisions which have not been completed by the date when the hereby Act came into force.

2. The hitherto abiding provisions shall apply to such performance reviews of local government employees on official positions, including managerial official positions, which have not been completed by the date when the hereby Act came into force.

3. The hitherto abiding provisions shall apply to disciplinary proceedings initiated under these provisions which have not been completed by the date when the hereby Act came into force.

Art. 58. (omitted)

Art. 59. 1. (omitted)

2. The hitherto abiding provisions regarding remuneration shall apply to appointed local government employees until 31st December 2011.

Chapter 7

Final provisions

Art. 60. The Act of 22nd March 1990 on Local Government Employees (Journal of Acts of 2001, pos. 1593, as amended¹⁾) expires.

Art. 61. The Act comes into force as of 1st January 2009, however Art. 45 pt. 3, Art. 49 pt. 3 and Art. 50 pt. 3 shall apply to terms of office following the term of office during which the Act came into force.

¹ Amendments to the consolidated text of the Act were announced in Journal of Laws of 2002 pos. 984 and 1806, of 2005 pos. 71, 192 and 1020 and of 2006 pos. 549, 1201 and 1218.

I, Agata Andrzejewska M.A., Licensed English-Polish Translator & Interpreter (Licence No. TP 695/05), certify consistency of this translation with the Polish document submitted to me for translation. Łódź, 20.09.2021. Reg. no. 984/21. Translated pages: 41 (45836 characters)



Agata Andrzejewska