

**Dz.U. (Journal of Laws) of 2003 No. 166 Pos. 1608****ACT**

of 9 July 2003

**on the Employment of Temporary Workers<sup>1)</sup>****Prepared using:  
consolidated text  
Dz. U. of 2016  
Pos. 360, of 2017  
Pos. 658, 962.**

## Chapter I

**General Provisions**

**Article 1.** This Act lays down the rules for employing temporary workers by an employer who is a temporary work agency, and the rules for posting such workers and persons other than temporary work agency workers to perform temporary work for a user employer.

**Article 2.** The following terms used in this Act have the following meanings:

- 1) “user employer” – an employer or an entity not being an employer within the meaning of the Labour Code, entrusting a temporary worker posted by a temporary work agency with tasks, and supervising their performance;
- 2) “temporary worker” – a worker employed by a temporary work agency exclusively for the purpose of performing temporary work for and under the management of a user employer;
- 3) “temporary work” – the performance of the following tasks for a relevant user employer for a period that does not exceed the one set out in this Act:
  - a) seasonal, periodic, or ad hoc tasks; or
  - b) tasks whose timely performance by the workers employed by the user employer would not be possible; or
  - c) tasks normally falling within the ambit of an absent worker employed by the user employer.

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<sup>1)</sup> To the extent of its regulations, this Act implements Directive 91/383/EEC of 25 June 1991 supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship (OJ EU L 206 of 29 July 1991).

The data concerning the publication of acts of European Union law, published in this Act, as of the date on which the Republic of Poland became a member of the European Union, refer to the publication of these acts in the Official Journal of the European Union – special edition.

**Article 3.** (repealed)

**Article 4.** An employer may not act as a user employer in respect of workers employed by it under an employment contract.

**Article 5.** Unless provided for otherwise in this Act and by separate provisions, provisions of the labour law concerning, respectively, the employer and the employee apply, subject to Article 6, to the temporary work agency, the temporary worker and the user employer.

**Article 6.** Temporary workers are not subject to provisions of the Act of 13 March 2003 on Detailed Rules of Terminating Employment Contracts by Reasons Not Attributable to Dismissed Workers (Dz. U. of 2015 Pos. 192, 1220 and 1268).

## Chapter II

### **Rules for Employing and Posting Temporary Workers and Persons Other Than Temporary Work Agency Workers to Perform Temporary Work**

**Article 7.** 1. The temporary work agency employs temporary workers under a fixed-term employment contract.

2. The temporary work agency may post persons other than temporary work agency workers to perform temporary work under a civil law agreement.

**Article 8.** Temporary workers may not be entrusted with the performance of work for the user employer:

- 1) that is particularly dangerous within the meaning of provisions issued under Article 237<sup>15</sup> of the Labour Code;
- 2) on a position occupied by the user employer's worker during their participation in a strike;
- 3) that is of the same type as the work performed by the worker of the user employer with whom the employment relationship was terminated for reasons not attributable to workers within the last three months preceding the expected date of commencement of temporary work by the temporary worker, if such work would be performed

in any organisational unit of the user employer situated in a commune in which the organisational unit of the dismissed worker is or used to be located;

- 4) that requires supplying a security worker with combat firearms or items intended to incapacitate persons using electricity the possession of which requires obtaining the permit referred to in the Act of 21 May 1999 on Firearms and Ammunition (Dz. U. of 2012 Pos. 576, of 2013 Pos. 829, of 2014 Pos. 295, of 2015 Pos. 1505, and of 2016 Pos. 1948 and 1954).

**Article 9.** 1. In order to enter into an employment contract between the temporary work agency and the temporary worker, the user employer agrees upon the following terms with the agency in writing:

- 1) the type of work to be entrusted to the temporary worker;
- 2) the qualifications required for the performance of the work to be entrusted to the temporary worker;
- 3) the anticipated period of temporary work;
- 4) the working hours of the temporary worker;
- 5) the place of temporary work.

2. The user employer informs the temporary work agency in writing about:

- 1) the pay for the work to be entrusted to the temporary worker, and internal pay regulations in force at the user employer's enterprise, and (at the temporary work agency's request) provides the content of the rules for review;
- 2) the occupational health and safety conditions for performing the temporary work;
- 3) the absence of circumstances that would prevent the commencement of performance of the temporary work by the temporary worker for the user employer as referred to in Article 8 Item 3.

2a. The user employer provides the temporary worker with working clothes and footwear, personal protective equipment, supportive meals and drinks, and occupational health and safety training; investigates circumstances and causes of accidents at work; and assesses and discloses occupational risk.

2b. Provisions of the Labour Code apply accordingly to the manner and time of completion of occupational health and safety training.

3. Before an employment contract is entered into between the temporary work agency and the temporary worker, the temporary work agency and the user employer agree upon the following in writing:

- 1) the scope of information regarding the course of temporary work that affects the amount of pay for work of the temporary worker, and the manner and date of provision of the information to the temporary work agency in order to enable the correct calculation of the pay for work of such a worker;
- 2) the extent to which the user employer assumes the obligations of the employer in respect of occupational health and safety other than those set out in Paragraph 2a;
- 3) the extent to which the user employer assumes the obligations of the employer in respect of payments to cover business travel expenses.

**Article 9a.** During the period of performance of temporary work by the temporary worker, the user employer immediately informs the temporary work agency in writing of the change of the internal pay regulations referred to in Article 9 Paragraph 2 Item 1, and provides the content of the amended regulations for review at the request of the temporary work agency.

**Article 10.** 1. The temporary work agency and the user employer may agree upon that the temporary worker uses their holiday leave in whole or in part during the period in which they perform temporary work for the user employer, also specifying the course of granting such holiday leave.

2. If the period of work for a relevant user employer is six months or more, the user employer is obliged to enable the temporary worker to use the holiday leave during that period, by granting time off work to the worker based on their holiday leave entitlement, on dates agreed upon with the worker.

**Article 11.** The temporary work agency notifies the person to whom the performance of temporary work is to be entrusted of the content of the arrangements set forth in Articles 9 and 10 before entering into an employment contract with them.

**Article 11a.** In order to enter into an employment contract or a civil law agreement between the temporary work agency and the person to whom temporary work is to be entrusted, the temporary work agency determines a total period of work so far performed by such a person for a relevant user employer under an employment contract or a civil law agreement.

**Article 11b.** The person to be entrusted with temporary work under an employment contract or a civil law agreement provides the temporary work agency with certificates of employment or other documents confirming periods of temporary work for a relevant user employer under an employment contract, and submits a written declaration or submits certificates confirming periods of temporary work for a relevant user employer under a civil law agreement, as referred to in Article 25a Paragraph 2, involving the period of thirty-six months preceding the expected date of commencement of temporary work with a relevant user employer.

**Article 12.** An arrangement between the temporary work agency and the user employer to the effect that the temporary worker is not to be employed by the user employer after the completion of temporary work is invalid.

**Article 13. 1.** An employment contract entered into between the temporary work agency and the temporary worker should set out the parties to the contract and the date of the contract, and specify the user employer and the agreed period in which temporary work is to be performed for the user employer. The contract should also determine terms of employment for the temporary worker during the period of work for the user employer, in particular:

- 1) the terms set out in Article 9 Paragraph 1 Items 1, 4 and 5;
- 2) the pay for work, the date and method of its payment by the temporary work agency.

2. In a fixed-term employment contract, the parties may include the possibility of early termination of the contract by either party, giving:

- 1) a three-day notice if the employment contract was entered into for a period that does not exceed 2 weeks;

2) a one-week notice if the employment contract was entered into for a period of more than 2 weeks.

2a. Not later than within 7 days after the day of entering into an employment contract, the temporary work agency provides the temporary worker with information enabling them to directly contact representatives of the temporary work agency, including the address of the place of contact, phone number and e-mail address, and days and hours when such contact is possible. The information is provided in a written or electronic form.

2b. Any changes to the information referred to in Paragraph 2a are notified by the temporary work agency to the temporary worker at the latest within 7 days after the date of occurrence of the relevant change, in the manner set out in Paragraph 2a, the second sentence.

3. Article 177(3) of the Labour Code applies to a female temporary worker who has been posted by a temporary work agency for a total of at least two-month posting period for temporary work under an employment contract.

3a. A total minimum two-month period referred to in Paragraph 3 includes:

- 1) the period or periods of posting for temporary work falling within the period of thirty-six successive months preceding the entering into the employment contract to which Article 177(3) of the Labour Code would apply, or
- 2) the period starting from the day of entering into the employment contract referred to in Item 13 until the date when a female temporary worker has reached a total of at least two-month period of posting for temporary work.

4. The employment contract is to be entered into in writing. If an employment contract is not entered into in writing, the temporary work agency provides a written confirmation to the temporary worker of the type of employment contract that was entered into together with its terms, not later than on the second day of temporary work.

**Article 14.** 1. The user employer performs obligations and enjoys rights of an employer to the extent necessary to organise work with the participation of the temporary worker.

2. The user employer:

- 1) is obliged to provide the temporary worker with safe and healthy working conditions at the place assigned for the performance of temporary work;

- 2) keeps records of the temporary worker's working time to the extent and on the terms applicable to its own workers;
- 3) may not apply provision of Article 42(4) of the Labour Code to the temporary work, or entrust the temporary worker with work for and under the management of another entity.

**Article 14a.** 1. The user employer keeps records of persons performing temporary work under an employment contract and a civil law agreement, containing information regarding the date of commencement and termination of such work within the period of thirty-six successive months referred to in Article 20, and keeps the records for the period when it is to be maintained and during the immediately following period of thirty-six months.

2. The records referred to in Paragraph 1 are maintained and kept in a written or electronic form, separately for each and every person.

**Article 15.** 1. During the period of work performance for the user employer, the temporary worker may not be treated less favourably as regards terms of work and other employment conditions than the user employer's workers employed on the same or a similar position.

2. In respect of access to training organised by the user employer to improve workers' qualifications, the provision of Paragraph 1 does not apply to temporary workers performing work for the user employer for a period shorter than six weeks.

**Article 16.** 1. The temporary worker in respect of whom the user employer breached the principle of equal treatment regarding terms and conditions set out in Article 15 has the right to seek damages from the temporary work agency in the amount stipulated in provisions of the Labour Code regarding damages due to the worker from the employer for the breach of the principle of equal treatment of workers in an employment relationship.

2. The temporary work agency has the right to seek reimbursement by the user employer for the equivalent of the damages paid out to the temporary worker.

**Article 17.** 1. The temporary worker is entitled to two days of holiday leave for each month of being at

the disposal of one or more user employers; the worker is not entitled to holiday leave for the period for which they have used their holiday leave entitlement under special provisions applicable with the previous employer.

2. The temporary worker is granted holiday leave on the days that would normally be working days for such a worker if they did not use such a leave. In the case specified in Article 10 Paragraph 2, provisions of Article 167<sup>2</sup> of the Labour Code apply to the temporary worker.

3. If the temporary worker did not use their holiday leave entitlement during the period in which they performed temporary work, the temporary work agency provides the temporary worker with a cash equivalent in lieu of such a leave or any unused part thereof.

3a. The temporary work agency is not obliged to pay the cash equivalent referred to in Paragraph 3 if the parties agree that the holiday leave is to be used while the temporary worker remains in the employment relationship under another employment contract entered into with the same temporary work agency, in order to entrust temporary work for the same user employer with whom such work was performed, immediately before the termination or expiration of the previous employment contract with this agency.

4. The holiday pay is determined:

- 1) by dividing the pay paid to the temporary worker during the period of three months of work for the same user employer under an employment contract or contracts with the relevant temporary work agency, preceding the calendar month in which such a worker is granted time off work in the amount corresponding to their holiday leave entitlement, by the number of hours of work during which they performed work during these three months;
- 2) and then by multiplying the resultant pay per hour of work by the number of hours falling on time off work on the days on which the temporary worker would have worked if they had not used the holiday leave.

5. The three-month period referred to in Paragraph 4 Item 1 includes a total period of ninety successive days of employment under an employment contract or contracts with the relevant

temporary work agency granting the holiday leave, concerning work performed for the same user employer, falling within the period of six calendar months preceding the calendar month in which the temporary worker was granted time off work in the amount corresponding to their holiday leave entitlement. The period of the ninety successive days of employment starts on the day immediately preceding the calendar month in which the temporary worker was granted time off work in the amount corresponding to their holiday leave entitlement.

6. If, during the period of six calendar months preceding the month in which the temporary worker was granted time off work in the amount corresponding to their holiday leave entitlement, the temporary worker remained in employment only under an employment contract or contracts during a calendar month or its multiples, the period of three months referred to in Paragraph 4 Item 1 includes a total period of three successive calendar months.

7. If, before starting to use their time off work in the amount corresponding to their holiday leave entitlement, the temporary worker received a pay for a period shorter than that the one set out in Paragraph 4 Item 1, the pay paid out in the period actually worked, falling in the period referred to in Paragraph 5, is used to calculate the holiday pay.

8. When determining the cash equivalent per day of holiday leave, it is assumed that, for the temporary worker employed:

- 1) on a full-time basis, one day of holiday leave corresponds to 8 hours;
- 2) on a part-time basis, one day of holiday leave corresponds to the number of hours determined in proportion to this working time, with 8 hours being the basis, where incomplete hours of holiday leave are rounded up to full hours.

9. When determining the cash equivalent for one day of holiday leave for the temporary worker whose working time during the period of employment changed, the provision of Paragraph 8 applies accordingly.

10. The cash equivalent for the holiday leave is determined:

- 1) by adding up amounts of pays paid out in the period of three months preceding the month in which the temporary worker is paid the cash equivalent, falling within the period of six calendar months preceding the month when the equivalent is paid out;
- 2) and then by dividing the obtained result by the number of hours during which the temporary worker performed work during the period referred to in Item 1;
- 3) and then by multiplying the resultant pay per hour of performed temporary work by the number of hours of the holiday leave for which the equivalent is paid out, this being determined in accordance with Paragraph 8.

11. Provisions of Paragraphs 5 to 7 apply accordingly to the determination of the cash equivalent.

**Article 18.** 1. An employment contract entered into with the temporary worker is terminated upon the expiration of the period of temporary work for a relevant user employer, as agreed upon the parties, subject to Article 13 Paragraph 2.

2. The user employer who intends to discontinue the performance of work by the temporary worker before the expiration of the period of temporary work agreed upon with the temporary work agency notifies the temporary work agency, in writing, of the expected date of discontinuation of the temporary work, if possible in advance, observing the period of notice that is binding upon the parties under the relevant employment contract.

3. In the event of the actual discontinuation of performance of temporary work by the temporary worker for the user employer due to the worker's failure to appear at work, without providing reasons for their absence, or due to the worker's refusal to continue the performance of temporary work for the user employer, the user employer immediately notifies the temporary work agency of the date and circumstances of discontinuation of work by the temporary worker.

**Article 18a.** 1. The temporary work agency provides the temporary worker with a certificate of employment concerning the total completed employment period at this agency, included in successive employment contracts entered into during the period not exceeding twelve successive months.

1a. The certificate of employment should include information concerning each user employer for which temporary work was performed under an employment contract, and periods of performance of such work.

2. A certificate of employment is issued on the day of expiration of the period referred to in Paragraph 1. If, however, the termination or expiration of the employment contract entered into before the lapse of twelve successive months falls after the lapse of this period, the certificate of employment will be issued on the day of termination or expiration of such an employment contract.

3. If it is not possible to issue a certificate of employment within the periods set out in Paragraph 2, the temporary work agency, at the latest within the next seven days, will send or deliver the certificate of employment to the temporary worker or to a person authorised by them in writing in respect of collection of the certificate of employment.

**Article 18b.** 1. The temporary worker may, at any time, request that the temporary work agency issue the certificate of employment due to the termination or expiration of the employment relationship.

2. A certificate of employment refers to the employment period based on each successive employment contract or a total employment period included in successive employment contracts.

3. A certificate of employment is issued within seven days after the day of request, and if it is not possible to issue the certificate within this period, the temporary work agency, at the latest within the next seven days, will send or deliver the certificate of employment to the temporary worker or to a person authorised by them in writing in respect of collection of the certificate of employment.

**Article 19.** 1. The temporary work agency is obliged to redress the damage inflicted to the user employer by the temporary worker in the performance of temporary work, on the terms and to the extent binding upon the worker in accordance with legal provisions on financial liability of workers.

2. The temporary work agency has the right to seek reimbursement by the temporary worker for the equivalent of the damages paid out to the user employer.

**Article 20.** 1. Over a period of thirty-six successive months, the temporary work agency may post a relevant temporary worker to perform temporary work for a single user employer

for a period not exceeding a total of eighteen months.

2. Over a period of thirty-six successive months, the temporary work agency may post a relevant person to perform temporary work under an employment contract and a civil law agreement for a single user employer for a period not exceeding a total of eighteen months.

3. Over a period of thirty-six successive months, the user employer may use work of the same temporary worker for a period not exceeding a total of eighteen months.

4. Over a period of thirty-six successive months, the user employer may use work of the same person performing temporary work under an employment contract and a civil law agreement for a period not exceeding a total of eighteen months.

5. For a period not exceeding thirty-six months, the temporary work agency may post the temporary worker to perform temporary work in a continuous manner for a single user employer, including tasks the performance of which falls within the ambit of an absent worker employed by the relevant user employer, and the user employer may use work of such a temporary worker for such a period.

6. After the period of performance of the temporary work referred to in Paragraph 5, the temporary worker may be posted by the temporary work agency and accepted by the same user employer for performance of temporary work for it not earlier than after the lapse of thirty-six months.

7. For a period not exceeding thirty-six months, the temporary work agency may post a relevant person to perform temporary work in a continuous manner under an employment contract or a civil law agreement for a single user employer, including tasks the performance of which falls within the ambit of an absent worker employed by the relevant user employer, and the user employer may use work of such a person for such a period.

8. After the period of performance of the temporary work referred to in Paragraph 7, the relevant person may be posted by the temporary work agency and accepted by the same user employer for performance of temporary work for it not earlier than after the lapse of thirty-six months.

9. Provisions of Paragraphs 1, 3 and 5 do not apply in the case of extension of an employment contract until the date of childbirth in accordance with Article 177 Paragraph 3 of the Labour Code.

**Article 21.** Article 25<sup>1</sup> of the Labour Code does not apply to employment contracts entered into between the temporary work agency and the temporary worker.

**Article 22.** During the period of temporary work for the user employer, the temporary worker has the right to use welfare facilities of the user employer on the terms provided for workers employed by such a user employer.

**Article 23.** 1. The user employer is obliged to inform a representative trade union organisation, as defined in Article 241<sup>25a</sup> of the Labour Code, of its intention to entrust the performance of temporary work to a temporary work agency worker. However, the user employer who intends to entrust the performance of work to a temporary work agency worker for a period exceeding six months is obliged to take steps to agree such an intention with representative trade union organisations.

2. The user employer is obliged to provide the information referred to in Paragraph 1 to the trade union organisations referred to in Article 9 Paragraph 1. The user employer and representative trade union organisations may agree upon on a wider scope of information to be provided to the organisations.

3. The user employer is obliged to inform temporary workers, in a manner accepted at the user employer's enterprise, of the vacancies on which it intends to employ workers.

**Article 24.** (repealed)

**Article 25.** To the extent not provided for in this Act, rights and duties of the user employer and of the temporary work agency are governed by a contract entered into between them.

**Article 25a.** 1. Provisions of Article 8, Article 9 Paragraph 1, Article 12, Article 20 Paragraphs 1, 3, 5 and 6, and Article 23 apply accordingly to persons posted to perform temporary work under a civil law agreement.

2. The temporary work agency issues a certificate to a person posted to perform temporary work under a civil law agreement

that confirms the period of temporary work performed for a relevant user employer.

3. The certificate referred to in Paragraph 2 is issued on the day of termination of temporary work under a civil law agreement, and if, for objective reasons, it is not possible to issue the certificate on the date, the temporary work agency, not later than within seven days after the date of expiration, sends or serves the certificate to the person who performed the temporary work under a civil law agreement or to a person authorised by them in respect of collection of the certificate. The authorisation may be submitted in a written or electronic form.

**Article 25b.** Provisions of the Labour Code concerning the employment of minors for purposes other than vocational training apply to persons aged 16 to 18 who are pupils posted to perform temporary work under a civil law agreement.

### Chapter III

(repealed)

### Chapter IV

## **Criminal Provisions**

**Article 27.** 1. Whoever, being a user employer or acting on its behalf, fails to provide a temporary worker with safe and healthy working conditions at the place assigned for the performance of temporary work, or fails to equip the temporary worker's workplace with machines and other technical devices that meet conformity requirements is liable to a fine from between PLN 1,000 and PLN 30,000.

2. The same penalty applies to whoever, being a user employer or acting on its behalf, fails to fulfil the employer's obligations agreed upon in writing with a temporary work agency, by failing, among other things, to:

- 1) provide working clothes or footwear or personal protective equipment to the temporary worker;
- 2) provide supportive meals and drinks to the temporary worker;

- 3) provide training to the temporary worker on occupational health and safety before allowing them to work, or provide periodical training;
- 4) ensure the determination of the circumstances and reasons for an accident at work suffered by the temporary worker;
- 5) inform the temporary worker of the occupational risk involved in the performed work, or inform of principles of protection from hazards;
- 6) perform other duties as agreed with the temporary work agency and related to the performance of temporary work by the temporary worker.

**Article 27a.** Whoever, being a temporary work agency or acting on its behalf, posts a temporary worker to perform work:

- 1) that is particularly dangerous in accordance with provisions issued under Article 237<sup>15</sup> of the Labour Code,
- 2) on a position occupied by the user employer's worker during their participation in a strike,
- 3) that is of the same type as the work performed by the worker of the user employer with whom the employment relationship was terminated for reasons not attributable to workers within the last three months preceding the expected date of commencement of temporary work by the temporary worker, if such work would be performed in any organisational unit of the user employer situated in a commune in which the organisational unit of the dismissed worker is or used to be located;
- 4) that requires supplying a security worker with combat firearms or items intended to incapacitate persons using electricity the possession of which requires obtaining the permit referred to in the Act of 21 May 1999 on Firearms and Ammunition,
- 5) temporary work for a single user employer for a period exceeding a total of eighteen months, over a period of thirty-six successive months,
- 6) temporary work for a single user employer for a period exceeding a total of thirty-six months, if the temporary worker continuously performs

temporary work involving tasks normally falling within the ambit of an absent worker employed by the user employer,

– is liable to a fine from between PLN 1,000 and PLN 30,000.

**Article 27b.** 1. Whoever, being a user employer or acting on its behalf, uses work of a temporary worker, by entrusting them with work:

- 1) that is particularly dangerous in accordance with provisions issued under Article 237<sup>15</sup> of the Labour Code,
- 2) on a position occupied by the user employer's worker during their participation in a strike,
- 3) that is of the same type as the work performed by the worker of the user employer with whom the employment relationship was terminated for reasons not attributable to workers within the last three months preceding the expected date of commencement of temporary work by the temporary worker, if such work would be performed in any organisational unit of the user employer situated in a commune in which the organisational unit of the dismissed worker is or used to be located;
- 4) that requires supplying a security worker with combat firearms or items intended to incapacitate persons using electricity the possession of which requires obtaining the permit referred to in the Act of 21 May 1999 on Firearms and Ammunition,

– is liable to a fine from between PLN 1,000 and PLN 30,000.

2. The same penalty applies to whoever, being a user employer or acting on its behalf:

- 1) uses temporary work of the same temporary worker for a period exceeding a total of eighteen months, over a period of thirty-six successive months;
- 2) uses temporary work for a period exceeding thirty-six months, if the temporary worker performs temporary work on a continuous basis and the work involves tasks normally falling within the ambit of an absent worker employed by the user employer;

- 3) fails to keep records of the temporary worker's working time to the extent and on the terms applicable to its own workers;
- 4) prevents the temporary worker from using holiday leave in accordance with Article 10 Paragraph 2.

**Article 28.** Rulings related to petty offences referred to in Articles 27-27b are made on the basis of a motion of a labour inspector, in the manner set out in in the Petty Offences Procedure Code.

## Chapter V

### Amending and Final Provisions

**Article 29** (omitted)<sup>2)</sup>

**Article 30.** (omitted)<sup>2)</sup>

**Article 31.** (omitted)<sup>2)</sup>

**Article 32.** Provision of Article 21 is applicable as of the date of the Republic of Poland's accession to the European Union.

**Article 33.** This Act enters into force as of 1 January 2004.

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<sup>2)</sup> Included in the Speaker of the Sejm of the Republic of Poland's announcement dated 29 February 2016 on the announcement of the consolidated text of the Act on Employment of Temporary Workers (Dz. U. Pos. 360).

<sup>3)</sup> The Republic of Poland became a member of the European Union on 1 May 2004.