

POLISH LEGISLATION NEWSLETTER – JANUARY - FEBRUARY 2020

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NEW LEGISLATION

1. Building Law

At the beginning of March, the President signed an amendment to the Building Law, which according to its authors is to significantly simplify the investment and construction process. The Act introduces a number of changes, the most important among them being those that concern the building designs, unauthorised construction, the time limit for a building permit decision and an occupancy permit decision being declared invalid and also a change to the list of structures for which a building permit or even a notification is not required.

The amendment introduces a division of the building design into three parts, i.e. the plot or land development design, the architectural and construction design, and the technical design. The technical design will not need to be attached to the application for a building permit. The plot or land development design and the architectural and construction design will be subject to approval in the building permit decision.

Pursuant to the Act, the technical design is to cover:

- the designed construction solutions of the structure along with the results of static and strength calculations;
- the energy performance – in the case of buildings;
- the designed indispensable technical and material solutions;
- depending on the needs – the geologic-engineering documentation or the geotechnical conditions for the foundations of building structures;
- other design studies.

The technical design must be in conformity with the plot of land development design and the architectural and construction design.

Moreover, the Act provides for the so-called simplified free-of-charge legalisation procedure for buildings built without a notification of building permit more than 20 years ago, with respect to which a demolition order decision has not been issued. The main requirement of the simplified legalisation procedure will be the submission during the course of the proceedings of a declaration on the right held to use the real property for construction purposes, the carrying out of a geodesic as-built survey and technical expert's report indicating whether the condition of the buildings structure:

- does not pose a risk to human life or health and
- enables the safe use of the building structure in accordance with its existing or intended manner of use.

Pursuant to this procedure, the legalisation of unauthorised construction will be possible without paying a legalisation fee. The legalisation decisions will constitute the grounds for the occupancy of the building structure (it will not be necessary to apply for an occupancy permit decision).

The Act introduces a 5-year deadline after which it will not be possible to invalidate a building permit decision and an occupancy permit decision.

The amendment also envisages considerable changes in the list of structures exempt from the requirement to obtain a building permit, or even notification. For example, a building permit or notification will not be needed to erect ATMs, ticket machines, cash deposit machines, vending machines, parcel storage machines or other machines with a height of up to 3 m used to provide other services. A notification will also not be required to construct house terraces with a footprint of up to 35 m² and aboveground fuel storage tanks with a capacity of up to 5 m³.

Moreover, the Act introduces changes concerning, among other things:

- the procedure for obtaining exemptions from the technical and construction regulations;
- the rules concerning the transfer of a building permit;

- the issuance of building permit decisions for building structures related to the maritime economy;
- the placing or making available of construction products on the domestic market.

The Act was signed by the President and is awaiting for publication in the Journal of Laws.

2. Code of Civil Procedure

An amendment to the Code of Civil Procedure was published at the end of February. It provides for, among other things, the creation within the framework of the common court system of separate organisational units which are to deal with matters falling within the scope of copyrights and derivative rights, industrial property and related matters concerning unfair competition.

The amendments introduces a specification of matters related to intellectual property. Within the meaning of the new provisions of law they will be matters concerning:

- the preventing and combating of unfair competition;
- the protection of personal rights in the scope in which it concerns the exercise of a personal right for the purpose of the individualisation, advertising or promotion of an entrepreneur, goods or services;
- the protection of personal rights in connection with scientific or inventive activity.

The Act also envisages the introduction of separate proceedings in intellectual property matters. Including the consideration of motions for the securing of evidence, motions for the disclosure or release of evidence and demands that violating parties provide information about the origin and distribution networks of products or services at the request of the eligible party.

IN proceedings where the value of the subject of dispute exceeds PLN 20,000, the substitution of the parties by professional attorneys-in-fact (advocates, legal advisers, patent attorneys) is anticipated as a rule. An exception are cases of a less complex nature, in which upon the motion of a party or ex officio the court can release the party from the obligation to be substituted by a professional attorney-in-fact.

Moreover, pursuant to the new regulations changes to the Commercial Companies Code, aimed at introducing a simple joint-stock company and the computerisation of the proceedings before

The Act was published in the Journal of Laws of 21 February 2020, under item 288 and, as a rule, will enter into force on 1 July 2020.

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