

POLAND: WHISTLEBLOWER RULES – 2024

The Act on the Protection of Whistleblowers 2024

New Whistleblower protections come into effect September 25th 2024

There are multiple new obligations for private entities.

Below we detail the provisions of the act, what your business needs to do, and how iGlobal can help.

What are the new obligations?

Entities which have 50 or more people carrying out paid work (whether as employees or contractors) must set up internal reporting procedures.

The internal reporting procedure is to be established following consultations with both workplace trade unions, or (in the absence of a trade union), representatives of persons performing work for the legal entity, appointed in the procedure accepted by the entity. The consultations should last at least 5 days, but no more than 10 days from the date of presentation of the draft internal reporting procedure – the consultations are not binding for the entity. The internal reporting procedure will enter into force 7 days after it has been made known to those working at the entity.

The internal reporting procedure must specify:

- who is authorised to receive internal reports (person, internal unit or external entity);
- how the internal reports should be transmitted (reporting channels);
- who is authorised to take follow up actions, including investigations (an impartial person or internal unit);
- a procedure for dealing with anonymous reports (their processing is not obligatory);
- the obligation to confirm receipt of the report to the whistleblower and the maximum time for providing a reply;
- the duty for follow-up actions to be undertaken with due care comprehensible and readily available information on how to submit an external report to the Commissioner for Human Rights or other appropriate authority.

What do the new rules criminalise?

The following are now criminal offences under the Act:

- preventing or significantly hindering a report (fine, restriction of liberty, imprisonment for up to one year and if involving violence, threat or deception, for up to 3 years);
- retaliation (fine, restriction of liberty, imprisonment for up to 2 years, and if persistent, for up to 3 years);
- disclosure of the whistleblower's identity (fine, restriction of liberty, imprisonment for up to one year);
- failure to establish an internal reporting procedure or establishing a procedure that significantly breaches the requirements of the Act (a petty offence punishable by a fine);
- making a report or public disclosure in bad faith, namely knowing that the infringement never happened (fine, restriction of liberty, imprisonment for up to 2 years).

Where should your business start?

Businesses should:

- establish how reports of irregularities should be submitted (“reporting channels”);
- determine an internal reporting procedure (after consulting with trade unions or employee representatives);
- define the rules for follow-up investigations.

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How can iGlobal assist you?

iGlobal can assist your business by:

- Helping you choose how to set up an obligatory internal reporting channel that most suits your businesses needs and capabilities.
- Preparing an internal reporting procedure – either from scratch, or by adapting existing internal regulations to the requirements of the Act (taking into account your organisations needs in view of how it is organised and its specific business).
- Helping to resolve the most problematic issues under the Act.
- Assist in establishing common rules for medium-sized enterprises and common procedures for corporate groups.
- And if needed, provide support in conducting investigations following reports of irregularities received from whistleblowers.

This is a high level general update only. Legal advice should be obtained on specific circumstances.