

# Legal opinion

## Changes to construction and planning laws in the government's Polski Lad programme

The Ministry of Development, Labour and Technology unveiled for consultation in August a draft bill amending the Construction Law of 7 July 1994 and the Act of 27 March 2003 on Spatial Planning and Land Use. Its objective is to simplify the construction of small single-family houses and recreational houses. The reform is part of the government's Polski Lad ('Polish Deal' or 'Polish Order') programme.

### Houses up to 70 m<sup>2</sup>

New, simplified rules are to apply to the construction of free-standing, single-family residential buildings up to two storeys high and up to 70 m<sup>2</sup> of built up area, with a maximum usable floor area of 90 m<sup>2</sup>. Under the proposal, such projects will no longer require a building permit to be obtained; a notification will suffice. Appointing a site manager and keeping a construction logbook will no longer be required, either. It will be possible to build one such house per 1,000 m<sup>2</sup> of a plot.

### Recreational houses

The proposal also liberalises rules pertaining to free-standing, single-storey "buildings of private recreation," i.e. buildings intended for periodic leisure use. The construction of such buildings already does not require a building permit to be obtained, however the government wants to increase their permitted size from 35 m<sup>2</sup> to 70 m<sup>2</sup> of built up area, with the maximum permitted span of structural elements set at 6 metres and the maximum permitted bracket height at 2 metres. It will be possible to build one such house per 500 m<sup>2</sup> of a plot.

### Time limit for issuing decisions on land use conditions

Under existing provisions of the Act on Spatial Planning and Land Use, it is only in the case of decisions on the location of projects of public purpose that there is a stipulated timeframe, 65 days, within which the competent authority has to issue the decision, or face a financial penalty. Under the government's proposal, such a time limit will also be established for decisions on land use conditions (WZ). It will be 90 days, with the exception of buildings up to 70 m<sup>2</sup> of built up area, for which it will be 30 days.

### Assessment

The proposal does not lend itself to a simple judgement. The verdict has to be a mixed one.

To begin with, under current law it is already possible to build a single-family house without having to obtain a building permit, as long as the project's impact area is confined to the plot(s) on which it is to be built – regardless of the house's built up area or usable floor area. In light of this, the changes do not seem all that revolutionary, especially since authorities will retain the power to impose an obligation to obtain a building permit for a structure, including a house up to 70 m<sup>2</sup>, otherwise requiring only a notification, in case its construction might create, perpetuate or increase negative effects (constraints, nuisances) for neighbouring real estate.

Abolishing the requirements to appoint a site manager and to keep a construction logbook will indeed, as the reform's authors point out, reduce the cost of building small houses. But on the other hand, lack of proper oversight could jeopardise the safety of their construction and use.

Another stated purpose of the changes is to prevent densification of construction. Yet this is not necessarily a desirable goal given the social and economic costs, especially in cities.

On a positive note, small house projects will still need to comply with local zoning plans or decisions on land use conditions, and a building design will still have to be drawn up. This will help prevent total architectural anarchy.

The introduction of a timeframe for the issuance of decisions on land use conditions, with fines in case of delays, is also a step in the right direction that should speed up a process that often takes too long.

The draft bill is now in public consultation. The government has said that it wants to progress it through Parliament quickly, so that investors can take advantage of the new rules already in the new building season. If enacted, the bill will come into effect a month after its publication in the Journal of Laws.

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