

LEGAL ALERT: **EMPLOYMENT MATTERS**

UKRAINE: CHANGES IN REGULATION OF EMPLOYMENT AGREEMENTS WITH FREELANCERS

On 18 July 2022, the Parliament adopted the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Regarding the Regulation of Labour Relations with Non-Fixed Working Hours" (the "Law"). The main purpose of the Law is to regulate the engagement of freelancers by way of employment.

The Law is pending the President's signature. The Law will enter into force on the day following the day of its publication.

The peculiarities of employment agreements with freelancers (the "Agreement") are described below.

Terms of the Agreement

The Agreement does not provide for a specific time for the performance of work by an employee, and an employee's obligation to perform the work does not arise, unless the employer provides the employee with such work. At the same time, the continuous engagement of employees by employers is not guaranteed. This reflects the specifics of the work of freelancers, who may be engaged by employers on an irregular basis to perform work that is non-permanent, but repetitive.

The employer may (i) independently determine the need for and time of the employee's engagement, its scope and (ii) agree with the employee on the mode of work and working hours required to complete the engagement within the period specified by the Agreement.

The Agreement shall be in writing and set out the following:

- the method and minimum notification period of an employee on commencement of work, which shall be sufficient to enable the employee to commence work on time;
- the method and maximum notification period of the employer about the readiness of the employee to commence work or refusal to perform such work; and
- the intervals during which the employee may be required to work (base hours and days).

The labour authorities shall approve the model form of the Agreement.

Note that the number of Agreements per employer shall not exceed:

- ten percent of the total number of employment agreements to which it is a party; and
- one Agreement if the employer has less than ten employees.

Requirements for remuneration, working hours and rest time

The maximum number of working hours of an employee under such Agreement is 40 hours (base hours) and 6 days a week (base days). The employee may refuse to work outside the base days or hours.

A salary under the Agreement shall be paid for:

- an actual time worked; or
- an actual work performed if a piece rate system applies.

If the employee agrees to work outside the base days or hours, his/her salary shall not be less than the one provided for in the Agreement. An employee shall be paid double the amount of the hourly rate if the normal duration of working hours is exceeded (overtime work).

The minimum working hours of an employee in a calendar month will be 32 hours. That said, if an employee performed work for less than 32 hours, salary shall, in any case, be paid for at least 32 working hours.

Liability for violation of labour laws

In the case of:

- exceeding the permitted number of Agreements; or
- keeping inaccurate records of the employee's working hours in relation to the actual work performed under the Agreement,

the employer shall be fined three minimum wages per employee in respect of whom the violation is committed.

Other peculiarities

In addition to the above, the Law sets out:

- additional grounds for bringing the employee to disciplinary liability for refusing to perform work during base days and hours. The exceptions are, for example, a refusal due to (i) temporary incapacity for work or (ii) violation by the employer of the deadline for notifying the employee on availability of work, etc.;
- a possibility to set out in the Agreement the additional grounds for its termination. Such grounds shall relate to the employee's abilities or conduct, or other reasons of an economic, technological, structural or similar nature; and
- a possibility for an employee, subject to certain conditions, to approach the employer with a request to enter into an employment agreement for a fixed or indefinite term.

Follow our updates to find out about the adoption and entry into force of this and other laws.

SOURCE:

- [official webportal of the Verkhovna Rada of Ukraine](#)

HOW WE CAN HELP

Everlegal expertise

- ✎ advising on compliance with labour legislation, in particular during martial law;
- ✎ preparation of documents on labour relations, in particular employment agreements and contracts, employer's orders and regulations, internal regulations, including by taking into account the requirements for the organisation of labour relations during martial law;
- ✎ termination of labour relations, in particular with top management, key employees and taking into account the peculiarities of the martial law regime;
- ✎ legal representation in labour disputes;
- ✎ optimisation of staff recruitment under employment and civil agreements; and
- ✎ appealing against decisions of public authorities in case of violations of labour legislation.

OUR EXPERTS

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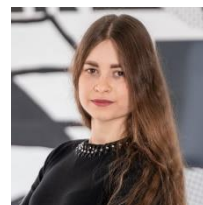
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