

News Flash

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Amendment to the Labour Code

As of 1.1.2015 an Amendment to the Labour Code will become effective. One of the most important changes introduced by the amendment is provision on temporary work assignment of an employee.

Terms definition

User employer

For the purposes of this Act the term user employer refers to a legal entity or natural person to whom the temporary employee is assigned to perform work by an employer or temporary employment agency under a special regulation .

Employer

The term refers to an employer an employee has signed the employment contract with.

Temporary worker

The term refers to an employee who is temporarily assigned to the user employer.

Temporary assignment of employees

If an employer or temporary employment agency will not prove otherwise, the term temporary assignment of an employee also refers to work performance of the employee through which the employer or temporary employment agency carries out activities for a legal entity or natural person if:

- The legal entity or natural person assigns tasks to the employee, organizes, manages and controls his/her work and gives him/her orders for this purpose
- This activity is mostly carried out in the premises of the legal entity or natural person and mostly with his/her work tools or this activity is mostly carried out on the devices of the legal entity or natural person
- These activities are main business activity of the legal entity or natural person registered in the relevant register

Business trips of the temporarily assigned employee

Starting 2015, an employee can be sent on business trip only by user employer.

The amendment aims to restrict avoidance of the law when a large part of the income was paid to the employee in form of travel expenses reimbursement.

The temporary assignment of an employee will be possible only in the following cases:

- If the employee carries out activities belonging to the 4.category under the special regulation
- If the user employer wants to assign the employee to some other user employer

Conditions

Temporary assignment can be agreed only for a definite period of time except for the

temporary assignment if agreed for a period of substitution of an employee during:

- Maternity leave
- Parental leave
- Vacation immediately following the maternity or parental leave
- work disability
- long-term release of the employee for performance of public function or union function

Temporary assignment agreed before January 1st 2015 will end **not later than on December 31th 2016**.

Duration of temporary work assignment

Temporary assignment can be concluded for max. 24 months. During this period it can be expanded max. 4 times.

This also applies in the following cases:

- if the employee is assigned by different employers to the same user employer
- if the period of min. 6 months is not between the individual extensions

The above mentioned provision does not apply in case of temporary substitution of an employee.

Automatic establishment of employment relationship

If the temporary assignment violates the condition of the definite period or possibility to extend the employment relationship, **the employee will automatically become an employee of the user employer for indefinite period.**

This does not apply to the temporary assignment in case of substitution of an employee during the maternity leave, parental leave, vacation immediately following the maternity or parental leave, temporary work disability or an employee who is long-term released for performance of public or union function.

The new employer is obliged to inform the employee about this change till 5 working days. The employment relationship will be conducted for indefinite period.

Wage equity

The employer or user employer are obliged to provide the employee with the wage at least as favorable as the comparable employee of user employer is receiving.

If the condition is not fulfilled, the user employer is obliged to pay the difference in wage to the employer till 15 calendar days following the payment day.

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