

News Flash

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**Changes to Employment Law of
Ukraine in 2015**

Since January 1, 2015 employees in Ukraine will be hired under new rules

The Law of Ukraine "On Amendments to Certain Ukrainian Laws regarding Reform of Mandatory State Social Insurance and Legalization of Salaries Fund" of 28 December 2014 No. 77-VIII which came into force on January 1, 2015 introduces the changes to the Article 24 of the Labour Code of Ukraine regulating employment procedure, in particular Part 3. shall be read as follows: «*The employee cannot be admitted to work without Labour Contract completed by the employment order or decree of the employer or the authorized body and when the central executive authority in charge of administering the Unified Social Tax is failed to be notified about hiring the employee in the manner approved by the Cabinet of Ministers of Ukraine*».

Employment order now is obligatory

New edition of the Law provides that when the employer hires employee to perform certain work, pay him wages, ensures working conditions and employee keeps internal labour policy, then such deal can be deemed as Employment Contract and shall be obligatory executed by employment order.

The changes to the Article 24 of the Labour Code of Ukraine provide that the employer is obliged to notify corresponding executive authority about hiring the employee in the specified manner. The employer is prohibited to admit the employee to work without this notification. This provision shall be also complied with when the employee has spare-time work.

To date, such procedure has not been approved yet. After the Cabinet of Ministers develops and approves the notification procedure, the Fiscal Service of Ukraine will provide clarifications regarding application of this statutory regulation.

The Fiscal Service of Ukraine in its letter of 29.01.2015 No.2627/7 / 99-99-17-03-01-17 notifies that until the notification procedure is approved the filled in table 5 of Annex 4 to the Procedure of submitting report on the accrued amount of the unified social contribution for obligatory state social insurance shall be deemed as "notification" on the hired employees being filed as part of statutory reporting for calendar month to the local fiscal service.

No need to register employment agreements with individuals

Amendments to the Labour Code of Ukraine cancel obligation of physical persons hiring employees to register employment agreements performed in written in the local State Employment Service of Ukraine within seven working days after the employee is admitted to work following the procedure adopted by the central executive authority.

Increased employer's liability

Amendments to the Article 265 of the Labour Code increased penalties for violation of labour law regulations. Thus, legal and natural entities-entrepreneurs who hire employees shall be liable and pay administrative fine if:

- the employee is admitted to work without Employment agreement (contract), registered as part-time worker and de facto works full time set in the company and if the employer pays wages dodging unified tax for state mandatory social insurance and mandatory pension fund contributions and taxes – the amount of fine is thirty minimum statutory salaries set by the law at the time of committing violation (as of February 2015 – UAH 36 540,00);
- the employer delays to pay wages and other allowances stipulated by labour legislation to the employees for more than one month, or pays wages not in full - the amount of administrative fine is three minimum statutory salaries set by the law at the time of committing violation (as of February, 2015 – UAH 3 654, 00);

- the employer fails to meet minimum guarantees for labour compensation - the amount of fine is ten minimum statutory salaries set by the law at the time of committing violation (as of February 2015 - UAH12 180,00);
- the employer violates other labour law regulations – administrative fine is the minimum statutory salary (as of February, 2015 - UAH1 218,00).

The above mentioned fines are imposed by the central executive authority responsible for implementation and enforcing labour law policy in the manner set by the Cabinet of Ministers of Ukraine.

In addition, the law provides administrative fines for managers of the companies, institutions and organizations regardless of their ownership as well as private entrepreneurs.

Thus, Article 41 of the Code of Ukraine on administrative offenses provides as follows:

1. Violation of the fixed dates for paying pensions, educational allowances, salaries is subject to the fine amounting from thirty to one hundred (UAH 510,00 – 1 700,00) tax-exempt minimums.
2. Allowing the employee to work without labour contract, or hiring a foreigner or person without citizenship being in the process of getting refugee status, based on employment agreement (labour contract) but without corresponding work permit shall be fined from five hundred to

one thousand (UAH 8 500,00 – 17 000,00) tax-exempt minimums.

Bringing to administrative responsibility for the above mentioned offenses shall be implemented based on court decision.

Moreover, managers of the companies, institutions and organizations regardless of their ownership as well as private entrepreneurs shall hold criminal liability if:

- dismiss the employee illegally on personal grounds – the fine amounts from two to three thousand tax-exempt minimums (UAH 34 000,00 – 51000,00) or revocation of the right to hold certain positions or practice certain activities for the period up to three years, or corrective work for a period up to two years (Article 172 of the Criminal Code of Ukraine);
- the employer (manager of the company or private entrepreneur) intentionally and unjustified neglects to pay wages or other allowances set by the law for over one month – the fine is from five hundred to one thousand tax-exempt minimums (UAH 8 500,00 – 17 000,00) or corrective work for the period up to two years, or imprisonment up to two years with deprivation of the right to hold certain positions or practice certain activities up to three years (Article 175 of the Criminal Code of Ukraine).

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