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Labour Law and Employment Ukraine | 2023 Guide



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ENTITLEMENT TO WORK IN UKRAINE

Employment of residents

According to the labour law of Ukraine, the possible ways of employment are as follows:

- a labour agreement or labour contract
- a civil contract on performing certain services
- employment contract with non-fixed working hours
- gig contract for Diya City residents

Residents do not need a work permit in order to work in Ukraine but they need to be at least 18 years old at the time of employment.

Employment of underage individuals is allowed only if they are over 14 years of age, work does not interfere with studies, and there is parental permission.

Employment of non-residents

Non-residents have the same rights to work in Ukraine as any Ukrainian has.

However, non-residents have to provide certain documentation before starting to work in Ukraine. The first one is the work permit. Because Ukraine does not belong to the EU, the work permit is mandatory for both EU and Non-EU citizens. After obtaining a work permit, the non-resident can apply for a residence permit, which is the second mandatory document required for employment.

* From 07/19/2022, Law 2352 of 07/01/2022 entered into force. The law is in effect during the martial law introduced in accordance with the Law of Ukraine

" On the Legal Regime of Martial Law" and expires from the day of the termination or cancellation of martial law, except for the third part of Article 13 and Article 15 of this Law, the articles of the Law that relate to payments by the executing state military aggression against Ukraine, money related to labour relations, lost as a result of armed aggression.



EMPLOYMENT CONTRACTS

Regular employment

Considering the regular employment contracts, we can single out the following types:

Indefinite term labour agreement

This type of contract is the most common in Ukraine. The indefinite term Labour agreement is regulated by the Labour Law of Ukraine, Company internal policies and collective labour agreement.

Fixed-term labour agreement

The only difference between these types of agreements is that the Parties limit their work relationship with a specific period, based on the type of activity performed.

* From 19.07.2022 the employer is obliged to inform employees, who work under a fixed-term employment contract, about vacancies that meet their qualifications and provide for the possibility of concluding an indefinite term Labour agreement, as well as to ensure equal opportunities for such employees to conclude it.

A fixed-term labour agreement with temporary or seasonal employees









This special type of agreement is a Service agreement. By using this type of agreement, the Parties agree and acknowledge that all conditions of their collaboration are conveyed in the agreement.

Employment contract with non-fixed working hours

This is a special type of employment contract, the terms of which do not establish a specific time for the performance of work, the obligation of the employee to perform which arises only if the employer provides the work provided for in this employment contract without guaranteeing that such work will be provided continuously, but with compliance with the terms of payment.

Mandatory contractual specifications

The contract should have at least the following information:

-  identification details of the employer and employee
-  type of work
-  contract term
-  place where the work is performed
-  remuneration corresponding to the type of work (salary*)
-  working hours, vacation, and the right to additional days off
-  probationary period
-  notice period for the termination of employment

***UAH 6,700** (approx. EUR 170) is the minimum wage in Ukraine

* From 19.07.2022 before the employment takes effect, the employer is obliged to inform the employee in a manner agreed with the employee about the following:

- the place of work (information about the employer, including its location), the job function the employee undertakes to perform (a position and a list of duties), as well as the commencement date.
- designated workplace, equipped with all necessary means for work;
- rights and obligations, working conditions;
- presence of dangerous or hazardous work conditions at the workplace that have not yet been eliminated, and the possible consequences of their impact on health; the right to benefits and compensation for work in such conditions in accordance with the legislation and the collective agreement – to be signed;
- Internal Labour Rules and Regulations or the rules for establishing the working regime, the duration of working hours and rest breaks, and terms of the collective agreement (if concluded);
- training on occupational health and safety, industrial sanitation, occupational hygiene, and fire safety and security;
- professional training of employees (if such training is provided);
- annual leave duration and terms, and amount of remuneration;
- procedure and terms of Termination of Employment Notice stated by this Code, which must be followed by the employee and the employer.

Probationary period

According to Ukrainian legislation, the probationary period for regular employees cannot be longer than 3 consecutive months. In some cases, it can be up to 6 consecutive months, but it must be agreed with the Primary Trade Union Organization.

Workers (blue-collar occupations) are the subject of a maximum 1-month probation period.

* The labour legislation norms under martial law apply taking into account the requirements of Law No. 2136-IX dated 15.03.2022 "Organization of labour relations under martial law". According to clause 2 of Art. 2 of this Law, **when concluding an employment contract during the martial law period, the condition of employee testing at the time of hiring may be established for any category of employees.**



TERMINATION OF THE EMPLOYMENT

Cases

According to the Ukrainian Labour Legislation, the employment may be terminated due to a few reasons, in particular:

- staff redundancy
- company liquidation
- the violation of labour agreement, labour law, Internal Rules & Policies, etc., but only in accordance with the procedure set by the Code of Labour Laws
- voluntary termination of the employment at the initiative of the employee with 2 weeks' notice to the employer
- by default, on the date specified in a fixed-term contract

*** From 19.07.2022 new grounds for dismissal were added:**

1. Death of an individual who uses hired labour; or the court decision which comes into force to recognize such individual as missing or to declare him dead.
2. Death of the employee or recognition by the court as missing or declared dead.
3. The employee's absence from work and lack of information about the reasons for such absence for more than four months.
4. Impossibility to provide the employee with working conditions due to the fact that the production, organizational, technical capacities, means of production or property of the owner or the body authorized by him, required for the performance of work by the employee, were destroyed as a result of hostilities, while:
 - termination of the contract in such cases is carried out if it is impossible to transfer the employee to another job with his consent.
 - the employee dismissed under this article has the right to enter an employment contract in the event of re-employment.
 - upon dismissal, the employee is paid severance pay in the amount of at least the average monthly salary.
 - an employee with whom an employment contract has been terminated on the grounds provided for in clause 6 of the first part of Article 41 of the Labour Code **within one year has the right**

to conclude an employment contract in the event of rehiring if the employer hires employees with similar qualifications

- The employer must notify the employee about the dismissal no later than 10 calendar days prior to the planned dismissal.

Together with a **copy of the dismissal order**, the employer is **obliged** to give the employee **written notice of the amounts accrued and paid to him upon dismissal**.

An employee may apply for a labour dispute resolution directly to the court within **three months** from the day he learned or should have learned about the violation of his right.

The employee has the right to apply to the court for the resolution of a labour dispute in dismissal cases within **one month** from the date of delivery of a copy of the dismissal order, and in cases regarding the payment of all sums due to the employee upon dismissal - within **three months** from the date his receipt of a written notification of the amounts accrued and paid to him upon dismissal.

Notice of termination of employment

Employees are notified in person about the coming dismissal no later than two months in advance.

The employee has the right to terminate the Indefinite Term Labour Agreement by notifying the owner or a body authorized by him in writing two weeks in advance.

In special cases of staff redundancy or liquidation employees must be personally notified by the employer no later than two months in advance.

In case of voluntary termination of the Indefinite term Labour agreement, the employee must notify the employer at least two weeks in advance.

***Suspension of employment relations (from July 19, 2022)**

Suspension of an employment contract is a temporary termination by the employer of providing the employee with a job and a temporary termination of the employee's performance of the work under the concluded employment contract in connection with the military aggression against Ukraine, which excludes the possibility for both sides of the employment relationship to fulfil the obligations stipulated in the employment contract. The initiator of the suspension of the employment contract can be both the employer and the employee, but for a period not longer than the period of martial law. In case of a decision to cancel the suspension of the employment contract until the termination or cancellation of martial law, the employer must notify the employee of the need to start work 10 calendar days before the resumption of the employment contract.

The suspension of the employment contract is formalized by an employer's order, which specifies information about the reasons for the suspension, the term of the suspension of the employment contract, the number and categories of employees to whom it may apply, the conditions for resuming the employment contract, etc.



SOCIAL CONTRIBUTIONS AND INCOME TAX

Contributions paid by employers for each employee

22% of the gross salary is the Social Security Contribution in Ukraine

This percentage is applied to salaries which are less than 15 subsistence minimums for able-bodied persons. If the salary is higher, then only the amount up to 15 subsistence minimums for able-bodied persons is taxable, while the rest is non-taxable.

The subsistence minimum for able-bodied persons in Ukraine is UAH 6 700 (approx. 170 EUR) starting 1st January, 2023.

Contributions paid by employee

1.5% of the salary is the military tax paid by each employee

Personal income tax

18% flat rate of the gross salary is the income tax paid by the employee

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WORKING TIME AND VACATION

Working hours

40 hours/week

Generally the length of a working week is restricted to 40 hours. **Usually, it is a five-day working week, but the employer may introduce a six-day working week** and, in this case, employees may not work more than seven hours per day.



The day before a national holiday is one hour shorter.

*** With changes from 19.07.2022. provided for:**

The time scale of normal working hours during martial law may be increased to 60 hours per week **for employees of critical infrastructure facilities** (defence, life support of the population, etc.)

During the martial law period, the public holidays and non-working days regulations do not apply (Article 73 of the Labour Code).

Some categories of employees are entitled to work shorter hours per week. For employees performing work under harmful working conditions the working week is limited to 36 hours. Pregnant women; women with children under the age of 14 or disabled children; or those who take care of a sick family member based on medical recommendations, can also get permission for a shorter working day or a week with a proportional change in wages.

Leave

According to current Ukrainian legislation, the regularity of annual leave is determined according to schedules prepared at the beginning of the year and consider the interests of both the employer and the employee's interests.



An employee has the right to a minimum annual leave of 24 calendar days.

The employee's right to annual basic and additional full-time leave in the first year of employment begins after six months of continuous work at the current employer. However, if the employee has worked for the company for less than a year, the annual leave shall be granted in proportion to the period actually worked, based on the approximate calculation of 2 vacation days for each month worked.

The employer also has the right to grant an employee a longer annual leave.

However, the employer is obliged to provide a longer leave to certain categories of employees who have the right to it, such as:

- for persons considered to be in the third degree of disability an annual leave of 26 calendar days should be granted
- for persons with the first or second degree of disability an annual leave of 30 calendar days should be granted
- for minors an annual leave of 31 calendar days should be granted.
- for educators, an annual leave of 56 calendar days should be granted

Employees who have irregular working hours shall be provided with additional annual leave of up to 7 calendar days per year.

*** As of 19.07.2022 following changes are foreseen:**

During the period of martial law, granting an employee annual basic leave is limited to the duration of 24 calendar days for the current working year. If the duration of an employee's annual basic leave is more than 24 calendar days, the provision of unused days of such leave during the period of martial law shall be transferred to the period after its expiration. **During the period of martial law unused days of annual basic leave, to which the employee acquired the right in previous working years, are not granted.** In case of termination of employment during the period of martial law, the employee is paid monetary compensation for all unused days of annual basic leave. **In agreement with the Employer! This is a right, not an obligation!**

The employee's right to transfer the remaining annual leave to a new employer in case of transfer to another place of work **is excluded**. That is, employees transferred from one enterprise, institution, or organization to another enterprise, institution, or organization, and who fully or partially did not use the annual basic leave at the previous place of employment, do not have the right to transfer the rest of the leave and should receive monetary compensation at the time of work termination.

The period of military service is **NOT included** in the work experience record which gives the right to annual basic leave.

Employee's salary **for the entire period of leave is paid before the leave starts unless otherwise provided by law, labour, or Collective Agreement.**

It is the employer's obligation **to preserve the workplace and position** of employees called up for military service.

Unpaid leave

Ukrainian legislation allows for two types of leave without pay:

- provided to employees on a mandatory basis;
- provided by the mutual agreement of the employer and the employee

The most common form of unpaid leave is leave at the employee's request.

Unpaid leave which is **provided by the employer in a mandatory manner**, is as follows:

- to a father raising children without a mother (including in the case of a long-term stay of the mother in a medical institution) or a mother, who has two or more children under the age of 15 or a disabled child, for up to 14 calendar days annually;
- in connection with the employee's wedding (10 calendar days);
- in connection with the death of a relative (up to 7 days, in the case, when the deceased was a blood relative or by marriage, and up to 3 days for other persons);
- to a father whose wife is taking maternity leave, for which a total of 14 calendar days shall be granted
- to a mother in order to take care of a child in need of care until the child reaches the age of 6;
- for shift / part-time employment until the end of annual leave at the main place of work.

Due to family circumstances and for other reasons, an employee may be granted unpaid leave for a period determined by an agreement between the employee and the employer or other authorized body, but no more than 15 calendar days per year:

- for the period of validity of quarantine measures to prevent coronavirus infection;
- for the period of martial law in Ukraine (not limited in the number of days, but no more than until the end of martial law)

*** As of 19.07.2022 changes were made:**

During the period of martial law, the employer, at the employee's request who has left the territory of Ukraine or acquired the status of an internally displaced person, obligatorily grants him **Leave Without Pay for the duration specified in the application, but no more than 90 calendar days, where the time spent on vacation is excluded from the employment record, which gives the right to annual basic leave**, provided for in clause 4 of the first part of Article 9 of the Leave Act of Ukraine. The law does not provide for the employer's right to deny the employee such leave.



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MOST COMMON EMPLOYEE BENEFITS

The most common benefits for employees in Ukraine are:



bonuses in terms of financial rewards



discounts on company products



professional trainings



flexible working hours



language courses



company phone



work from home option



company car



additional days off (extra holidays)

Financial bonuses are added to the gross earnings and taxed accordingly.

Benefits such as professional trainings, language courses, company phone or company car (used for business purposes) are considered company expenses and are considered company expenses and reduce the amount of taxes paid by the company.

Any personal (individual) benefits are taxed from the gross employee earnings accordingly.



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TEMPORARY WORK

Basic characteristics

This type of work may be formalized by an agreement on the provision of temporary services. Temporary employment means seasonal works.

Seasonal work refers to the activity which, due to climate or season conditions, may be performed only during certain periods of time.

Temporary work is also considered the work performed for the substitution of an Employee who is temporarily unavailable (ex: due to illness), but also the work performed under a fixed-term labour agreement.

Temporary employment can also be considered the replacement of a certain employee who is temporarily unable to perform these duties (for example, due to illness). Such employment is also legalized in the form of a fixed-term employment contract.



OVERVIEW OF APPLICABLE LEGISLATION

The main sources of the labour law are the following acts:

- Code of Labour Laws of Ukraine № 322-VIII
- Civil Code of Ukraine № 435-IV
- On Employment of Population № 5067-VI
- On Remuneration of Labour 108/95-BP
- On the working conditions of employees employed on seasonal work № 310-09
- On International Law № 2709-IV

The Law of Ukraine "On Amendments to Certain Laws of Ukraine on Optimizing Labour Relations" No. 2352-IX (The Law is in effect during the martial law introduced in accordance with the Law of Ukraine "On the Legal Regime of Martial Law" and expires on the date of termination or cancellation of martial law, except for the third part of Article 13 and Article 15 of this Law, the articles of the Law, which relate to payments by the state carrying out military aggression against Ukraine, monetary sums related to labour relations, lost as a result of armed aggression).

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