Rödl & Partner

NEWSLETTER LATVIA

SETTING ACCENTS

Issue:
27 July
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Amendments to the Labour Law

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The Saeima [the Parliament of Latvia] has passed substantial amendments to the Labour Law that come into force on August 1st and will affect every employer. Because of these amendments it may be necessary for employers to amend existing employment contracts or alter their usual practices. Therefore, in this newsletter we will focus on the major changes in the Labour Law and what employers should be aware of.

Content of an employment contract

The amendments provide for numerous changes in regards to the content of an employment contract. Namely, these changes affect how the place of work should be specified in the employment contract, as well as rules on organizing working time and the rights to training.

The amendments stipulate that, if an employee does not have a specified working place or the main working place, it will have to be stipulated in the employment contract that the employee can be employed in a number of working places or that the employee can freely choose his working place by himself.

If the work schedule is completely or mostly foreseeable, the contracted daily or weekly working time will have to be specified in the employment contract. If, however, the employment is part-time and the working schedule is not completely or mostly foreseeable, it will have to be specified that the working schedule is variable and information about the contracted working time (guaranteed paid monthly working hours), information about the time period during which the employee can complete work or is obliged to complete work and the deadline for giving notice of beginning or calling-off work will have to be provided in the employment contract.

Information about the employees' rights to training, if the employer provides it, as well as information about social security (information about the State Social Insurance Agency of the Republic of Latvia as the social security authority and any private pension funds, if applicable) will also have to be included in the employment contract.

The amendments stipulate that the aforementioned information (except for specifying the working place) may be replaced with a reference to the legislation, the collective agreement or the internal rules of procedure. At the same time, it is provided that the employer shall provide employees with free access to information about internal rules of procedure and the collective agreement, and this information shall be comprehensible and complete, easily accessible, also by using electronic devices including online portals and information systems.

If any provisions of the internal rules of procedure or collective agreements are amended and such amendments directly affect the employee, the employer is obliged to inform the employee in writing about such amendments latest on the day when the relevant amendments come into force.

Taking into consideration that the amendments to the Labour Law concern essential parts of any employment contract, employers should make sure if their employment contracts conform to the new legal framework or if they should be amended accordingly. Additionally, employers should make sure that all documents concerning internal working regulations are available to all employees.

Collective agreement

The amendments stipulate that, in the cases mentioned in the law, without diminishing the overall level of legal security of employees, it is possible to deviate from the provisions of the law, by concluding a collective agreement with the employee trade union and that will not be considered as a deterioration of the employee rights.

The principle of not reducing the overall level of legal security of employees, as provided by the law, means that in each individual situation, when concluding a collective agreement, the social partners must agree on the necessary measures not to diminish the overall level of legal security of employees. That means that, when deviating from the minimum standard of the law in any particular aspect, the parties must agree on a balanced solution in a different aspect.

The procedure of how employers must introduce employees to collective agreements has also been changed. The current version of the law

states that the employer shall introduce employees to the collective agreement latest one month after the collective agreement has been accepted or amended. However, the amendments foresee that the employer shall introduce employees to the collective agreement and any amendments to it before the collective agreement or its amendments come into force, but latest on the day such an agreement or its amendments come into force.

If any change is made to the collective agreement, the employer is obliged to notify employees in writing of these changes.

Probation period

Currently the law stipulates that a probation period may not exceed 3 months. The amendments provide that a longer probationary period (up to 6 months) can be prescribed by a collective agreement concluded with a trade union of employees.

The amendments also provide for a shortened probation period, if a fixed-term employment contract is concluded. If an employment contract is concluded for a fixed period of up to 6 months, the probation period may not exceed 1 month, and if an employment contract is concluded for a fixed period of up to 1 year, the probation period may not exceed two months. The aforementioned probation periods may be extended to 3 months by a collective agreement that has been concluded with a trade union.

Accounts of working time

The employer is obliged to keep account of not only actual working hours of employees, but also of the downtime hours of employees.

Additionally, the amendments provide for substantial changes in the legal framework of the working schedule regulation.

The law will contain a definition of a working schedule, in particular, that a working schedule means the accurate time when employees begin and end work. The working schedule shall also contain reference hours and days, which are certain periods of time during certain days, during which employees may complete work upon the employer's request.

In case an employee's working schedule is not completely or mostly foreseeable, the employer has the right to employ the employee only if the work is being completed during hours and days that have been previously specified in the working schedule and the employer has duly notified the employee of the exact time period when work has to be done. The employee will be entitled to refuse performing of the work if the employer has failed to prepare a working schedule or to notify the employee of a prepared working scheduled. In such cases the law stipulates that no negative consequences can arise for the employee in relation to the employee's actions.

Additionally, if the employer has made changes to the working schedule resulting in the planned work of an employee being cancelled and the employer has not duly notified the employee of such changes, the employee is entitled to receive appropriate remuneration, which the employee would have received for completing the cancelled work.

Taking into account the significant changes concerning accounting of working time and notifying employees thereof, employers should make sure if their employment contracts or internal rules of procedure establish an employee notification procedure.

The employer's obligations, when sending an employee on a business trip

If an employee is sent on a business trip or work trip to a different country, the employer is obliged to notify the employee in writing regarding the country or countries in which the employee should complete work and about the foreseeable duration of the trip, before the employee leaves on the business trip. If the term of a business trip or work trip to a different country lasts longer than four continuous weeks, the employer has the additional obligation to inform the employee of the currency in which the remuneration will be paid; monetary or in-kind benefits related to the work, if such are provided; repatriation options and procedures, if such are provided. The employer shall also inform the employee in writing of any changes in the aforementioned information before such changes come into force, but latest on the day such changes come into force.

Working time organization matters

The amendments stipulate that an employee, who has a child up to the age of 8 or who provides personal care to a spouse, parent, child or another close family member or to a person who lives in the same household as the employee and who, because of a serious medical reason, requires substantial care or support, will be entitled to request the employer to provide the working time organization adjustments. Additionally, such employees are entitled to up to five days unpaid leave a year.

The employer will be obliged to evaluate such employee requests and inform the employee within one month at the latest about the possibilities of working time organization adjustments within the company.

Should working time organization adjustments be established for the employee for a fixed time period, after this period, the previous working regime will have to be restored. The employee will be entitled to request the employer to renew the previous working regime before the agreed term is over, if such a request is based on objective change in circumstances. The employer will be obliged to evaluate such employee requests and notify the employee of the decision latest within a month as from receiving the employee's request.

The amendments also stipulate that if an employee's work schedule is not completely or mostly foreseeable, after the probation period has ended, the employee is entitled to request the employer to transfer him to a position where the work schedule is completely or mostly foreseeable, if such an opportunity exists within the company and the employee has been employed by the employer continuously for at least six months. In turn, the employer is obliged to provide a reasoned answer in writing to such a request to the employee latest within a month of receiving such a request.

Leave for a child's father and leave for child care

At present the Labour Law stipulates that a child's father is entitled to 10 calendar days long leave. The amendments extend the term of a father's leave, providing the father with an entitlement to 10 working days long leave. Furthermore, this leave can be granted latest within 6 months of the child's birth (at present – 2 months).

If parenthood is not acknowledged (established), another person, who is not the mother of the child, will be entitled to the same leave as the child's father, to participate in the child's care at the request of the child's mother.

The employee will be able to request using of the leave for child care in a flexible manner. At the same time, the amendments stipulate that any one part of the leave for child care cannot be shorter than one continuous calendar week. The aforementioned means that a parent is entitled to take the leave for child care in parts instead of using the leave for a single longer period of time. The employer will be obliged to evaluate such an employee request and to notify the employee of the possibilities to take the leave for child care in parts within the company latest within a month of the day of receiving such a request. If the employer refuses the possibility of using the leave for child care in a flexible manner, the employer must provide an objective explanation for this refusal.

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